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Canada, Fisheries, Dept. of.

# SPECIAL REPORT

ON THE

# FISHERIES PROTECTION SERVICE

OF

# CANADA,

1886.

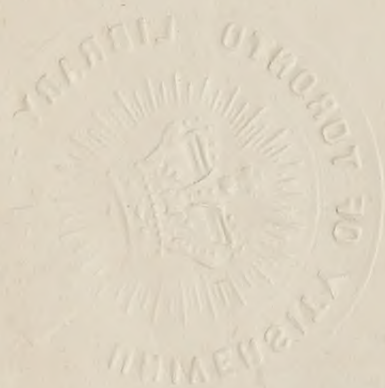
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SPECIAL REPORT  
ON THE  
FISHERIES PROTECTION SERVICE  
OF  
CANADA,  
DURING THE SEASON OF 1886.

The Honorable

GEORGE E. FOSTER,

Minister of Marine and Fisheries.

SIR,—The many enquires that have been made of the Department during the year as to the present and past attitude of the Fisheries Question, have prompted me to state briefly its history, noting in turn, since 1783, the several "Treaties" and "Regulations," together with the Acts of the Provinces prior to Confederation and those of the Dominion, which from time to time have been passed, to regulate the Fisheries, during the periods to which the statement submitted refers.

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THE FISHERIES QUESTION.

Before the War of Independence, in 1775, British American colonists enjoyed equal privileges in the North American inshore fisheries; but, on the conclusion of peace, it became a question how far such privileges should be continued to those who had voluntarily severed their connection with the British Crown.

The matter was fully discussed in the negotiations which preceded the Treaty of Paris, and an agreement was arrived at by which United States' citizens were allowed the liberty to fish and to dry and cure fish on certain defined portions of the coasts of British America.

THE TREATY OF PARIS.

The Third Article of the Treaty of Paris, of 3rd September, 1783, reads as follows:—

"It is agreed that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank and on all the other banks of Newfoundland, also in the Gulf of St. Lawrence, and at all other places in the sea, where the inhabitants of both countries used, at any time heretofore, to fish; and also that the

“inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not to dry or cure the same on that island), and also on the coasts, bays and creeks of all other of His Britannic Majesty’s dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors and creeks of Nova Scotia, Magdalen Islands and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground.”

It will be observed that the wording of this Article is carefully guarded, and that, while it continues to the citizens of the United States the right of prosecuting within the area in question what may be called the deep-sea fisheries, it conveys to them simply the liberty to take, or to dry and cure fish therein upon certain defined portions of the British American coasts, and under certain expressed conditions.

The fisheries continued to be regulated by this Treaty until the War of 1812 by which, the liberties granted United States’ citizens under the Treaty of 1783 were terminated.

#### THE TREATY OF GHENT.

The Treaty of Ghent, signed in 1814, contained no reference to the Fisheries Question, although in the negotiations which led up to that event, the subject was discussed by the plenipotentiaries of the two powers concerned. Their respective contentions are shown by the following statements made by the commissioners on behalf of each Government. On the part of the British Government it was stated that “they did not intend to grant to the United States *gratuitously* the privileges formerly granted by Treaty to them of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the British fisheries.” They contended that, the claim advanced by the United States of immemorial and prescriptive right was quite untenable, inasmuch as the Americans had, until the Revolution, been British subjects, and that the rights which they possessed formerly, as such, could not be continued to them after they had become citizens of an independent State; while the American plenipotentiaries declared that they were “not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto; from their nature, and from the peculiar character of the Treaty of 1783, by which they were recognized, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of them all.”

Immediately after the conclusion of this Treaty the British Government determined upon a vigorous protection of the colonial fisheries, and instructions were issued as follows:—

*INSTRUCTIONS from the British Government to the Governor of Newfoundland, relative to the Privileges enjoyed by Citizens of the United States to fish within British Jurisdiction.*

DOWNING STREET, 17th June, 1815.

SIR,—As the Treaty of Peace lately concluded with the United States contains no provisions with respect to the fisheries, which the subjects of the United States enjoyed under the III Article of Peace of 1783, His Majesty's Government consider it not unnecessary that you should be informed as to the extent to which those privileges are affected by the omission of any stipulation in the present treaty, and of the line of conduct which it is in consequence advisable for you to adopt.

You cannot but be aware that the III Article of the Treaty of Peace of 1783, contained two distinct stipulations, the one recognizing the rights which the United States had to take fish upon the high seas, and the other granting to the United States the privilege of fishing within the British jurisdiction, and of using under certain conditions the shores and territories of His Majesty for purposes connected with the fishery; of these, the former being considered permanent, cannot be altered or affected by any change of the relative situation of the two countries, but the other being a privilege derived from the treaty of 1783 alone, was, as to its duration, necessarily limited to the duration of the treaty itself. On the declaration of war by the American Government and the consequent abrogation of the then existing treaties, the United States forfeited, with respect to the fisheries, those privileges which are purely conventional, and (as they have not been renewed by stipulation in the present treaty) the subjects of the United States can have no pretense to any right to fish within the British jurisdiction, or to use the British territory for purposes connected with the fishery.

Such being the view taken of the question of the fisheries, as far as relates to the United States, I am commanded by His Royal Highness the Prince Regent to instruct you to abstain most carefully from any interference with the fishery, in which the subjects of the United States may be engaged either on the Grand Banks of Newfoundland, in the Gulf of St. Lawrence, or other places in the sea. At the same time you will prevent them, except under the circumstances hereinafter mentioned, from using the British territory for purposes connected with the fishery, and will exclude their fishing vessels from the bays, harbours, rivers, creeks and inlets of all His Majesty's possessions. In case, however, it should have happened that the fishermen of the United States, through ignorance of the circumstances which affects this question, should, previous to your arrival, have already commenced a fishery similar to that carried on by them previous to the late war, and should have occupied the British harbours, and formed establishments on the British territory, which could not be suddenly abandoned without very considerable loss, His Royal Highness the Prince Regent, willing to give every indulgence to the citizens of the United States which is compatible with His Majesty's rights, has commanded me to instruct you to abstain from molesting such fishermen, or impeding the progress of their fishing during the present year, unless they should, by attempts to carry on a contraband trade, render themselves unworthy of protection or indulgence; you will, however, not fail to communicate to them the tenor of the instructions which you have received, and the view which His Majesty's Government take of the question of the fishery, and you will above all be careful to explain to them that they are not, in any future season, to expect a continuance of the same indulgence.

I have, &c.,  
(Sd.)

BATHURST.

Vice Admiral Sir RICHARD G. KEATS.

The enforcement of these orders led to numerous seizures of United States' fishing vessels found within the limits of the colonial maritime jurisdiction, either fishing, remaining in harbours without necessity therefor, or using the coasts for purposes connected with their fisheries.

These stringent measures led to the reopening of negotiations by the President of the United States, in 1818, for the purpose of settling in an amicable manner, the disputed points which had arisen in connection with the Fisheries. Commissioners were appointed by both parties, and The Convention of 1818 was signed at London, on the 20th October of that year.

## THE CONVENTION OF 1818.

Article I of this Convention reads as follows :—

“Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry and cure fish on certain coasts, bays, harbours and creeks of His Britannic Majesty’s dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portions so settled, without previous agreement for such purpose with the inhabitants, proprietors or possessors of the ground. And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbours of His Britannic Majesty’s dominions in America not included within the above-mentioned limits. Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as shall be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.”

By the terms of this Convention, United States’ fishermen have secured to them forever the liberty :—

1. To take fish, (a) on the southern coast of Newfoundland, from Cape Ray to the Rameau Islands; (b) on the western and northern coast of Newfoundland from Cape Ray to the Quirpon Islands; (c) on the shores of the Magdalen Islands, and (d) on the southern coast of Labrador from Mount Joly to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast.

2. To dry and cure fish in any of the unsettled bays, harbours and creeks of the southern coast of Newfoundland and the coast of Labrador, as described in the Treaty.

3. To be admitted to the bays and harbour of His Britannic Majesty’s dominions in America for purposes of, (a) shelter, (b) repairing damages, (c) purchasing wood, (d) obtaining water, “and for no other purpose whatever.”

In 1819, the Act (59 Geo. III., Cap. 38) was passed by the Imperial Government for the due execution of the provisions of the Convention. Acts for a similar purpose and modeled after the Imperial Act were passed by the colonial legislatures, as follows :—

1836.—An Act relating to the Fisheries and for the prevention of illicit trade in the Province of Nova Scotia, and the coasts and harbours thereof. 6 William IV, chap. 8.

1843.—An Act relating to the Fisheries and for the prevention of illicit trade in Prince Edward Island and the coasts and harbours thereof. 6 Vic., chap. 14.

1853.—An Act relating to the coast fisheries and for the prevention of illicit trade. New Brunswick, 16 Vic., chap. 69.

1862.—Of the Coast and Deep-Sea Fisheries. Nova Scotia, 25 Vic., chap. 94.

1866.—An Act to amend the above. 29 Vic., chap. 35.

1868.—An Act respecting Fishing by Foreign Vessels. 31 Vic., chap. 61.

1870.—An Act to amend the above. 33 Vic., chap. 15.

1871.—An Act further to amend the above. 34 Vic., chap. 23.

1886.—An Act further to amend the above. 49 Vic., chap. 114.

Under these the British and Colonial Governments enforced the Treaty of 1818, and protected the inshore fisheries of the British American colonies.

From 1818 to 1851, fifty-one United States' fishing vessels were seized, of which twenty-five were condemned and twenty-six released either by the Admiral commanding or by order of the Courts of Vice-Admiralty.

The offences for which seizures were made and penalties imposed during this period were :—

1. Fishing within the limits set forth in the Convention of 1818.
2. Preparing to fish.
3. Purchasing and bartering bait and supplies.
4. Being in harbours and bays when not necessary for purposes of shelter and repairs, or of obtaining wood and water.

This vigorous enforcement of the provisions of the Convention led to negotiations between the United States and Great Britain, which ultimately resulted in the Reciprocity Treaty of 5th June, 1854. The clauses of this Treaty relating, more especially to the fisheries are as follows :—

#### THE TREATY OF RECIPROCITY.

##### ARTICLE I.

"It is agreed by the High Contracting Parties, that in addition to the liberty secured to the United States' fishermen by the above-mentioned Convention of 20th October, 1818, of taking, curing and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell fish, on the sea-coasts and shores, and in the bays, harbors and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the coasts and shores of those colonies and the islands thereof, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that in so doing

“they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the said coast in their occupancy for the same purpose.

“It is understood that the above mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all fisheries in rivers and the mouths of rivers are hereby reserved exclusively for British fishermen.

“And it is further agreed that in order to prevent or settle any disputes as to the places to which the reservation of exclusive right to British fishermen contained in this article, and that of fishermen of the United States contained in the next succeeding article, apply, each of the High Contracting Parties, on the application of either to the other, shall, within six months thereafter, appoint a Commissioner. The said Commissioners, before proceeding to any business, shall make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, upon all such places as are intended to be reserved and excluded from the common liberty of fishing under this and the next succeeding article; and such declaration shall be entered on the record of their proceedings. The Commissioners shall name some third person to act as an arbitrator or umpire in any case or cases on which they may themselves differ in opinion.

“If they should not be able to agree upon the name of such third person, they shall each name a person, and it shall be determined by lot which of the two persons so named shall be the arbitrator or umpire in cases of difference, or disagreement between the Commissioners. The person so to be chosen to be arbitrator or umpire, shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall already have been made and subscribed by the Commissioners, which shall be entered on the record of their proceedings.

“In the event of the death, absence or incapacity of either of the Commissioners, or of the arbitrator, or umpire, or of their or his omitting, declining or ceasing to act as such commissioner, arbitrator or umpire, another and different person shall be appointed, or named as aforesaid, to act as such commissioner, arbitrator or umpire in the place and stead of the person so originally appointed, or named as aforesaid, and shall make and subscribe such declarations as aforesaid.

“Such Commissioners shall proceed to examine the coasts of the North American Provinces and of the United States, embraced within the provisions of the first and second articles of this Treaty, and shall designate the places reserved by the said articles from the common right of fishing therein. The decision of the Commissioners, and of the arbitrator or umpire shall be given in writing in each case, and shall be signed by them respectively.

“The High Contracting Parties hereby solemnly engage to consider the decision of the Commissioners conjointly, or of the arbitrator or umpire, as the case may be, absolutely final and conclusive in each case decided upon by them or him respectively.”

#### ARTICLE II.

“It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty to take fish of every kind, except shell-fish, on the eastern sea coasts and shores of the United States, north of the thirty-sixth (36th) parallel of north latitude and on the shores of the several islands thereunto adjacent, and in the bays, harbors and creeks of the said sea coasts and shores of the United States, and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States, and of the islands aforesaid, for the purpose of drying their nets and curing their fish, provided that in so doing they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

“It is understood that the above mentioned liberty applies solely to the sea-fishery, and that salmon and shad fisheries, and all fisheries in rivers and mouths of rivers are hereby reserved exclusively for fishermen of the United States.”

In connection with Article II of the above Treaty, it may be mentioned that, Canadians found no advantages in the privilege of fishing on the eastern sea-coasts of the United States north of the 36th parallel of latitude, and consequently, did not avail themselves of such privilege.

A Commission composed of M. H. Perley, Esq., on behalf of the British Government, and of John Hubbard, Esq., on behalf of that of the United States, was engaged from 1856 till 1860 in determining the places (74 in number) to which the exclusive right of fishing under the first and second Articles of the Treaty aforesaid applied.

The Reciprocity Treaty continued in force from 1854 until 1866, when it terminated, after the twelve months' notice therein provided had been given by the United States' Government. Efforts were made by Canada and Great Britain for its renewal, but failed, and, as a consequence of such failure, the American privileges under it lapsed and the Convention of 1818 revived.

It then became necessary to consider what measures should be adopted for the protection of British rights.

The following Royal Proclamation, warning all citizens of the United States that their rights to fish in the inshore waters of Canada would cease with the termination of the Reciprocity Treaty on the 17th of March, 1866, was issued by Viscount Monck, Governor General of Canada.

PROVINCE OF CANADA, }  
PROCLAMATION.

VICTORIA, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c.*

To all whom these presents shall come, or whom the same may concern,  
GREETING.

Whereas a certain Treaty was made between Her Majesty and the United States of America, on the 5th of June, 1854, providing for reciprocal trade, and whereas the United States of America have, in accordance with the terms of the said Treaty, given notice for the termination thereof; and whereas in consequence of such notice the said Treaty will expire on the 17th day of March, 1866:

And whereas, under the said Treaty, many persons, citizens of the United States of America, have invested moneys and fitted out ships for the purpose of carrying on the (inshore) fisheries within the territory of Canada under the said Treaty:

And whereas they may be unaware that their right to carry on such inshore fisheries will end on the said 17th day of March:

“We, therefore, in our great desire to prevent injury or loss to our loving subjects, or to the citizens of a state with which we are happily in amity, do in this, our Royal Proclamation, caution and warn all persons not subjects of our

realm that after the said 17th day of March next, no vessels owned and manned in the United States of America can pursue the inshore fisheries without rendering themselves liable to the confiscation of their vessels, and such other penalties, pecuniary and personal, as are by law imposed.

(Signed) MONCK.

In order to prevent, as far as possible, the injury and loss which must be inflicted on United States' fishermen by a sudden withdrawal of privileges which they had enjoyed for twelve years, the Imperial Government felt inclined to allow the freedom of fishing which had prevailed from 1854 to 1866 to continue for the season of 1866, on the distinct understanding that, unless some satisfactory arrangement between the two countries was arrived at in the course of the year, such privilege would cease.

In deference to the wishes expressed by Her Majesty's Government and notwithstanding contrary opinions, the Government of Canada adopted the temporary expedient of issuing season licenses to American fishing vessels at a nominal tonnage rate. This system was maintained for four years with very unsatisfactory results, owing to neglect on the part of American fishermen to provide themselves with licenses, as may be seen by the following statement :—

*SCHEDULE of Licenses issued to American Fishing Vessels each year since 1866, in the several Provinces forming the Dominion of Canada, with the fees collected thereon.*

Year.	Number.	Rate per ton.	Fees Collected.
		\$ cts.	\$ cts.
1866.....	365	0 50	19,677 50
1867.....	270	1 00	13,929 00
1868.....	56	2 00	5,573 73
1869.....	25	2 00	2,041 61

These figures show that, during the first year of the license system, the vigorous policy hitherto pursued induced a large proportion of United States' fishermen, resorting to Canadian waters, to take out licenses; but this number gradually decreased until it had dropped to twenty-five in 1869.

The failure of the license system being apparent, it became necessary to adopt further measures for the efficient enforcement of British rights, and by an Order in Council of the Dominion Government, dated 8th January, 1870, it was determined to abolish the system of licenses and to equip a sufficient force for the protection of the coasts. This force was afterwards supplemented by the assistance of British ships of war on the North American station.

## FISHERIES PROTECTION POLICE.

The following vessels were employed as cruisers during the season of 1870 :—

Name of Vessel.	Tonnage.	Crew.	Charter.	In Command of.
			Rate per month.	
			\$	
Steamer "Lady Head" .....	168	25	Gov't property	Capt. P. A. Scott, R.N.
Schooner "La Canadienne" .....	100	24	do	do N. Lavoie.
do "England" .....	75	12	340	do G. V. Story, L.R.N.
do "Ella G. McLean" .....	78	12	350	do H. H. Betts, R.N.R.
do "Ida E" .....	70	12	350	do J. A. Tory, C. Customs.
do "Water Lily" .....	71	12	280	do F. S. Ewan, R.N.R.
do "Sweepstake" .....	69	12	300	do J. C. Carmichael.
do "Stella Maris" .....	61	12	300	do L. H. Lachance.

These vessels were placed under the immediate direction of Capt. Scott, R.N., who was instructed to confer, from time to time, with the Vice-Admiral commanding the North American squadron with a view to co-operation in all matters affecting the fisheries service.

In addition to the above the following vessels, commanded by officers of Her Majesty's Navy, were engaged to patrolling the fishing grounds during the season of 1870 :—

Name of Vessel.	Commander.	Rank.
Steamer "Royal Alfred" .....	E. G. Fanshawe .....	Vice-Admiral.
do "Britomart" .....	B. E. Cochrane .....	Commander.
do "Lapwing" .....	C. G. F. Knowles .....	do
do "Philomel" .....	Douglas Walker .....	do
do "Royalist" .....	R. S. Bateman .....	do
do "Cherub" .....	N. S. F. Digby .....	do
do "Sphinx" .....	H. B. Phillimore .....	do
do "Plover" .....	Jas. A. Poland .....	do
Frigate "Valorous" .....	E. Hardinge .....	do

During that year fifteen American fishing vessels were seized by Imperial and Canadian cruisers as follows:—

Name of Vessel.	By whom Seized.	In Command of.	How Disposed of.
"S. G. Marshall"....	Capt. Hardinge.....	H.M.S. "Valorous".....	Tried in Vice-Admiralty Court at Charlottetown. Condemned and sold.
"Albert".....	do do .....	do do .....	do do .....
"Clara F. Friend"...	do Poland .....	do "Plover".....	Taken to Charlottetown for adjudication, rescued by crew and recaptured.
"Wampatuck".....	do Jas. A. Tory.....	Can. Cruiser "Ida E".....	Tried in Vice-Admiralty Court at Halifax, condemned and sold.
"J. H. Nickerson"...	do do .....	do do .....	Tried in Vice-Admiralty Court at Halifax, vessel condemned and purchased by the Canadian Government.
"Minnie".....	do do .....	do do .....	Violation of Customs Laws. Defendant fined \$800 and costs.
"A. J. Franklin"...	do do .....	do do .....	Tried in Vice-Admiralty Court at Halifax. Vessel condemned.
"Granada".....	do do .....	do do .....	Violation of Customs laws. Vessel bonded.
"Romp".....	do Albert Betts.....	do "Water Lily".....	Tried in Vice-Admiralty Court at St. John, N.B. Vessel condemned and sold.
"White Fawn".....	do do .....	do do .....	Tried in Vice-Admiralty Court at St. John, N.B. Released for want of evidence.
"Perseverance".....	do do .....	do do .....	Taken to St. John, N.B., for adjudication. Condemned and sold.
"Lettie".....	do H. E. Betts.....	do "Ella G. McLean"	Result unknown.
"Lizzie A. Tarr"...	do N. Lavoie .....	do "La Canadienne"	Tried in Vice-Admiralty Court at Quebec. Condemned and sold.
"A. H. Wanson"...	do J.C.E. Carmichael	do "Sweepstake"....	Tried in Vice-Admiralty Court at Halifax. Condemned; bail forfeited.
"H. W. Lewis".....	do do ...	do do .....	Tried in Vice-Admiralty Court at Halifax. Result unknown.

In 1871, the following vessels were engaged in the Fisheries Protection Service:—

Name of Vessel.	Tonnage.	Crew.	Charter.	Commanded by.
			Rate per Month.	
			\$	
Steamer "Lady Head" .....	168	25	Gov't property	Capt. P. A. Scott.
Schooner "La Canadienne" .....	100	24	do ...	do N. Lavoie.
do "Water Lily" .....	71	12	\$ 280	do G. V. Story, L.R.N.
do "Ella G. McLean" .....	78	12	350	do do
do "New England" .....	75	12	340	do D. M. Brown, R.N.
do "Sweepstake" .....	60	12	300	do J. A. Tory, C. Customs.
do "Stella Maris" .....	61	12	300	do L. H. Lachance.
do "S. G. Marshall" .....	53	12	United States' seized vessel.	do G. W. Creighton.

Three American fishing vessels were seized during that year as follows:—

Name of Vessel.	By whom Seized.	In Command of.	How Disposed of.
"Samuel Gilbert" .	Captain N. Lavoie.....	Cruiser "La Canadienne."	Tried in Vice-Admiralty Court at Quebec. Condemned; released for costs.
"F. S. Schenck" ....	do D. M. Brown .	do "New England."	Vessel taken to Quebec for adjudication. Released on bond.
"E. A. Horton" ....	do J. A. Tory ....	do "Sweepstake."...	Rescued by United States' citizens.

In 1872, the following cruisers were employed:—

Name of Vessel.	Tonnage.	Crew.	Charter.	Commanded by.
			Rate per Month.	
			\$	
Steamer "Lady Head" .....	168	25	Gov't property	Capt. P. A. Scott, R.N.
Schooner "La Canadienne" .....	100	24	do ...	do N. Lavoie.
do "Peter Mitchell" .....	100	12	\$ 400	do D. M. Brown.
do "New England" .....	75	12	340	do W. T. Frost.
do "J. W. Dunscomb" .....	98	12	380	do Jas. A. Tory.
do "Katie" .....	60	12	300	do Geo. Matson.
do "Stella Maris" .....	60	12	300	do L. H. Lachance.
do "S. G. Marshall" .....	53	12	United States' seized vessel.	do Jas. A. Nickerson.
do "J. A. Nickerson" .....	70	12	do ...	do J. N. Purdy.

Two American fishing vessels were seized during that year as follows :

Name of Vessel.	By whom Seized.	In Command of.	How Disposed of.
"Enola C" .....	Capt. L. H. Lachance .....	"Stella Maris" .....	Sureties discharged.
"James Bliss" ....	do .....	do .....	do

In the year 1871, negotiations between Great Britain and the United States resulted in the appointment of a "Joint High Commission" to whom were referred several matters in dispute between the two Governments, among which was included the question of the North American fisheries. This Commission held its first meeting at Washington on the 27th February, 1871, and what is known as "The Washington Treaty" was signed on the 8th May of the same year.

#### THE WASHINGTON TREATY.

The Articles of this Treaty which relate to the fisheries are as follows :—

##### "ARTICLE XVIII.

"It is agreed by the High Contracting Parties that in addition to the liberty secured to the United States' fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors and creeks, of the Provinces of Quebec, Nova Scotia and New Brunswick, and the colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

"It is understood that the above mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers are hereby reserved exclusively for British fishermen.

##### ARTICLE XIX.

"It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbors and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

"It is understood that the above mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States.

#### ARTICLE XX.

"It is agreed that the places designated by the Commissioners appointed under the 1st Article of the treaty between Great Britain and the United States, concluded at Washington, on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's Dominions and the United States, as places reserved from the common right of fishing under that treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding Articles. In case any question should arise between the Governments of the United States and of Her Britannic Majesty as to the common right of fishing in places not thus designated as reserved, it is agreed that a Commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties and authority as the Commission appointed under the said 1st Article of the Treaty of the 5th of June, 1854.

#### ARTICLE XXI.

"It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country respectively free of duty.

#### ARTICLE XXII.

"Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this Treaty are of greater value than those accorded by Articles XIX and XXI of this Treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States, it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty; and that any sum of money which the said Commissioners may so award shall be paid by the United States' Government, in a gross sum, within twelve months after such award shall have been given.

#### ARTICLE XXIII.

"The Commissioners referred to in the preceding Article shall be appointed in the following manner, that is to say: One Commissioner shall be named by Her Britannic Majesty, one by the President of the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this Article shall take effect, then the third Commissioner shall be named by the Representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

"The Commissioners so named shall meet in the City of Halifax, in the Province of Nova Scotia, at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a

“solemn declaration that they will impartially and carefully examine and decide the  
 “matters referred to them to the best of their judgment, and according to justice and  
 “equity; and such declaration shall be entered on the record of their proceedings.  
 “Each of the High Contracting Parties shall also name one person to attend  
 “the Commission as its agent, to represent it generally in all matters connected  
 “with the Commission.

## ARTICLE XXIV.

“The proceedings shall be conducted in such order as the Commissioners  
 “appointed under Articles XXII and XXIII of this Treaty shall determine. They  
 “shall be bound to receive such oral or written testimony as either Government may  
 “present. If either party shall offer oral testimony, the other party shall have the  
 “right of cross-examination, under such rules as the Commissioners shall prescribe.

“If in the case submitted to the Commissioners either party shall have speci-  
 “fied or alluded to any report or document in its own exclusive possession without  
 “annexing a copy, each party shall be bound, if the other party thinks proper to  
 “apply for it, to furnish that party with a copy thereof; and either party may call  
 “upon the other, through the Commissioners, to produce the originals or certified  
 “copies of any papers adduced as evidence, giving in each instance such reasonable  
 “notice as the Commissioners may require.

“The case on either side shall be closed within a period of six months from  
 “the date of the organization of the Commission, and the Commissioners shall be  
 “requested to give their award as soon as possible thereafter. The aforesaid period  
 “of six months may be extended for three months in case of a vacancy occurring  
 “among the Commissioners under the circumstances contemplated in Article XXIII  
 “of this Treaty.

## ARTICLE XXV.

“The Commissioners shall keep an accurate record and correct minutes or  
 “notes of all their proceedings, with the dates thereof, and may appoint and employ  
 “a Secretary and any other necessary officer or officers to assist them in the transac-  
 “tion of the business which may come before them.

“Each of the High Contracting Parties shall pay its own Commissioner and  
 “Agent or Counsel; all other expenses shall be defrayed by the two Governments  
 “in equal moities.”

## ARTICLE XXXII.

“It is further agreed that the provisions and stipulations of Articles XVIII to  
 “XXV of this Treaty, inclusive, shall extend to the Colony of Newfoundland, so far  
 “as they are applicable. But if the Imperial Parliament, the Legislature of New-  
 “foundland, or the Congress of the United States shall not embrace the Colony of  
 “Newfoundland in their laws enacted for carrying the foregoing Articles into effect,  
 “then this Article shall be of no effect; but the omission to make provision by law  
 “to give it effect, by either of the Legislative bodies aforesaid, shall not in any way  
 “impair any other Articles of this Treaty.

## ARTICLE XXXIII.

“The foregoing Articles XVIII to XXV, inclusive, and Article XXX of this  
 “Treaty, shall take effect as soon as the laws required to carry them into operation  
 “shall have been passed by the Imperial Parliament of Great Britain, by the Parlia-  
 “ment of Canada, and by the Legislature of Prince Edward's Island, on the one  
 “hand, and by the Congress of the United States on the other. Such assent having  
 “been given, the said articles shall remain in force for the period of ten years from  
 “the date at which they may come into operation; and further until the expiration  
 “of two years after either of the High Contracting Parties shall have given notice  
 “to the other of its wish to terminate the same; each of the High Contracting  
 “Parties being at liberty to give such notice to the other at the end of the said  
 “period of ten years, or at any time afterwards.”

The Acts necessary to enable these articles to be carried into effect having been passed, a Proclamation fixed upon the 1st July, 1873, as the date on which they were to come formally into operation.

At the request of the United States' Government, Canada anticipated the time proposed and, in April, 1873, admitted American fishermen to the use of the privileges specified in the Treaty in advance of the date fixed upon by Legislative enactment. American fishermen at once availed themselves of the freedom of Canadian inshore waters. Similar concessions were made in July, 1871, by the Legislature of Prince Edward Island (which Province did not at that time form part of the Dominion) and by the Legislature of Newfoundland, although the full privileges granted by the United States under the Treaty were not accorded to Canada and Prince Edward Island until July 1, 1873, and in the case of Newfoundland not until June 1, 1874.

The next proceeding was the appointment of a Commission in conformity with Article XXII of the Treaty. This Commission was constituted as follows :—

Sir A. T. Galt, named by the Queen of England.

Hon. H. Kellogg, named by the President of the United States.

Mr. M. Delfosse, named by the Emperor of Austria-Hungary.

This Commission met in Halifax on the 15th June, 1877, for the purpose of determining the amount of compensation to be awarded for the extension of the fishery privileges mentioned in the Treaty, and after sitting over five months, awarded the sum of \$5,500,000 to be paid to the Government of England by that of the United States.

#### TERMINATION OF THE TREATY OF WASHINGTON.

The reciprocal arrangements made under the Treaty of Washington remained in force for a period of ten years, when, on the 3rd March, 1883, the following Resolution was adopted by the United States' Congress :—

*JOINT RESOLUTION providing for the termination of Articles numbered eighteen to twenty five, inclusive, and Article numbered thirty of the Treaty between the United States of America and Her Britannic Majesty, concluded at Washington, May eighth, eighteen hundred and seventy-one.*

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled: That in the judgment of Congress the provisions of Articles numbered eighteen to twenty-five, inclusive, and of Article thirty of the Treaty between the United States and Her Britannic Majesty, for an amicable settlement of all causes of difference between the two countries, concluded at Washington on the eighth day of May, anno Domini eighteen hundred and seventy-one, ought to be terminated at the earliest possible time, and be no longer in force: and to this end the President be, and he hereby is, directed to give notice to the Government of Her Britannic Majesty that the provisions of each and every of the articles aforesaid, will terminate and be of no force on the expiration of two years next after the time of giving such notice.

“Sec. 2. That the President be, and he hereby is, directed to give and communicate to the Government of Her Britannic Majesty such notice of such termination on the first day of July, anno Domini eighteen hundred and eighty-three, or as soon thereafter as may be.

"Sec. 3. That on and after the expiration of the two years' time required by said Treaty, each and every of said articles shall be deemed and held to have expired and be of no force and effect, and that every Department of the Government of the United States shall execute the laws of the United States (in the premises) in the same manner and to the same effect as if said articles had never been in force; and the Act of Congress approved 1st March, anno Domini eighteen hundred and seventy-three, intituled: "An Act to carry into effect the provisions of the treaty between the United States and Great Britain, signed in the city of Washington the eighth day of May, eighteen hundred and seventy-one, relating to the fisheries,' so far as it relates to the articles of said treaty so to be terminated, shall be and stand repealed and be of no force on and after the time of the expiration of the said two years."

Approved 3rd March, 1883.

On 2nd July, 1883, the United States' Minister at London accordingly notified Her Majesty's Government that the Fishery Articles of the Treaty of Washington would terminate on the 1st July, 1885.

A temporary agreement, as the result of negotiations, was entered into between the United States and Great Britain, the purport of which is set forth in the following proclamation issued by the President of the United States:—

*AGREEMENT between the United States and Great Britain respecting the Fisheries.  
Concluded 22nd June, 1885.*

#### NOTICE.

By direction of the President, the undersigned Secretary of State hereby makes known to all whom it may concern, that a temporary diplomatic agreement has been entered into between the Government of the United States and the Government of Her Britannic Majesty in relation to the fishing privileges which were granted by the fishery clauses of the treaty between the United States and Great Britain, of 8th May, 1871, whereby the privilege of fishing, which would otherwise have terminated with the treaty clauses on the 1st of July proximo, may continue to be enjoyed by the citizens and subjects of the two countries engaged in fishing operations throughout the season of 1885.

This agreement proceeds from the mutual good will of the two Governments, and has and has been reached solely to avoid all misunderstanding and difficulties which might otherwise arise from the abrupt termination of the fishing of 1885, in the midst of the season.

The immunity which is accorded by this agreement to the vessels belonging to the citizens of the United States engaged in fishing in the British American waters, will likewise be extended to British vessels and subjects engaged in fishing in the waters of the United States.

The Joint Resolution of Congress, of 3rd March, 1883, providing for the termination of the Fishery Articles of the Treaty of 8th May, 1871, having repealed in terms, the Act of 1st March, 1873, for the execution of the Fishery Articles, and that repeal being express and absolute from the date of the termination of the said Fishery Articles; under due notification given and proclaimed by the President of the United States, to wit, 1st July, 1885, the present temporary agreement in no way affects the question of statutory enactment or exemption from Customs duties, as to which the abrogation of the Fishery articles remains complete.

As part of this agreement, the President *will bring the whole question of the fisheries before Congress at its next session* in December, and recommend the appointment of a Joint Commission by the Government of the United States and Great Britain to consider the matter, in the interest of maintaining good neighborhood and friendly intercourse between the two countries, thus affording a prospect of negotiation for the development and extension of trade between the United States and British North America.

Copies of the memoranda and exchanged notes on which this temporary agreement rests are appended. Reference is also made to the President's Proclamation of 31st January, 1885, terminating the Fishery Articles of the Treaty of Washington.

By direction of the President,

(Sd.) T. F. BAYARD,  
Secretary of State.

It will be noticed that, under this agreement, the provisions of the Washington Treaty, in so far as they relate to fisheries, were extended by the Government of Canada until the close of the season's fishing of 1885, in order to avoid complications between both Governments as well as to obviate hardships in the case of parties whose vessels had been fitted for a whole season's fishing, and the President of the United States was to recommend the appointment of a Joint Commission for the settlement of the whole fishery question as well as for the extension and development of trade relations, which he did in his Annual Message to Congress in December, 1885, in the following terms:—

#### EXTRACT FROM THE PRESIDENT'S MESSAGE.

"The marked good-will between the United States and Great Britain has been maintained during the past year.

"The termination of the fishery clauses of the Treaty of Washington, in pursuance of the Joint Resolution of 3rd March, 1883, must have resulted in the abrupt cessation on the 1st of July of this year, in the midst of their ventures, of the operations of the citizens of the United States engaged in fishing in British American waters but for a diplomatic understanding reached with Her Majesty's Government in June last, whereby assurance was obtained that no interruption of those operations should take place during the current fishing season.

"In the interest of good neighborhood and of the commercial intercourse of adjacent communities, the question of the North American fisheries is one of much importance.

"Following out the intimation given by me when the extensory arrangement above described was negotiated, I recommend that the Congress provide for the appointment of a Commission in which the Governments of the United States and Great Britain shall be respectively represented, charged with the consideration and settlement, upon a just, equitable and honorable basis, of the entire question of the fishing rights of the two Governments and their respective citizens on the coasts of the United States and British North America. The fishing interests being intimately related to other general questions dependent upon contiguity and intercourse, consideration thereof, in all their equities, might also properly come within the purview of such a commission, and the fullest latitude of expression on both sides should be permitted."

This recommendation was not, however, favorably entertained by the Committee on Foreign Relations, who reported on the 14th April, 1886, that, "In the opinion of the Senate the appointment of a Commission, in which the Governments of the United States and Great Britain shall be represented, charged with the consideration and settlement of the fishing rights of the two Governments, on the coasts of the United States and British North America, ought not to be provided for by Congress."

The above Resolution was agreed to by a vote of 35 against 10 and determined in the affirmative.

#### REMARKS.

The Washington Treaty went into operation in 1873 and continued in force until 1st July, 1885. During these years there were no disputes, no seizures of American poaching schooners, and this might have continued had not the United States' Government given notice of the termination of the Treaty, upon which all the privileges granted under it ceased, and no other course was left the Canadian Government but to adopt means for the protection of its rights, as secured by the Convention of 1818.

Steps were, in consequence, immediately taken for the equipment of a Fisheries Protection Force, and the following vessels were put in commission in the spring of 1886 and continued to cruise on their respective stations until the close of the fishing season :

Name of Vessel.	Tonnage.	Crew.	Charter.	Commanded by.
			Rate per month.	
			\$	
Steamer "Lansdowne" .....	463	34	Govt. property.	Captain P. A. Scott, R.N.
do "Acadia" .....	483	34	do	do do
do "La Canadienne" .....	227	30	do	do Wm. Wakeham.
Schooner "L. Houlett" .....	74	18	300	do C. M. Lorway.
do "Terror" .....	80	18	250	do Thos. Quigley.
do "General Middleton" .....	67	18	300	do Jas. McLean.
do "F. E. Conrod" .....	66	18	300	do M. Smeltzer.
do "Critic" .....	57	18	260	do Wm. McLaren.
do "Lizzie Lindsay" .....	91	18	300	do L Pouliot.

The steamer "Acadia" was purchased in August at a cost of \$40,000 to replace the "Lansdowne." She has proved in every respect well fitted for the service.

The number of United States' vessels seized or detained during the season of 1886, for violations of the Treaty rights or infractions of Customs' Regulations, will be found at Appendix B, page 48, of the present report.

## INSTRUCTIONS TO COMMANDERS OF GOVERNMENT VESSELS ENGAGED IN THE PROTECTION OF THE INSHORE FISHERIES OF CANADA.

DEPARTMENT OF FISHERIES,  
OTTAWA, 16th March, 1886.

SIR,—In the performance of the special and important services to which you have been appointed you will be guided by the following confidential instructions.

For convenience of reference, these have been divided under the different headings of *Powers, Jurisdiction, Duties and General Directions.*

### POWERS.

The Powers with which you are invested, are derived from, and to be exercised in accordance with the following statutes, among others:—"The Fisheries Act" (31 Vic., cap. 60, of Canada); "An Act respecting Fishing by Foreign Vessels" (31 Vic., cap. 61, of Canada), and the subsequent statute entitled: "An Act to amend the Act respecting Fishing by Foreign Vessels," made and passed the 12th May, 1870 (33 Vic., cap. 15, of Canada); also, "An Act to further amend the said Act" (34 Vic., cap. 23, of Canada).

"Chapter 94 of the Revised Statutes (third series) of Nova Scotia" (of the "Coast and Deep Sea Fisheries"), amended by the Act entitled: "An Act to amend cap. 94 of the Revised Statutes of Nova Scotia" (29 Vic., cap 35).

An Act passed by the Legislature of the Province of New Brunswick entitled: "An Act relating to the Coast Fisheries, and for the prevention of Illicit Trade" (16 Vic., cap. 69).

Also an Act passed by the Legislature of Prince Edward Island (6 Vic., cap. 14) entitled : "An Act relating to the Fisheries, and for the prevention of Illicit Trade in Prince Edward Island, and the coasts and harbors thereof."

Also from such regulations as have been passed or may be passed by the Governor General in Council, or from instructions from the Department of Fisheries, under "The Fisheries Act," hereinbefore cited.

As Fishery Officer you have full authority to compel the observance of the requirements of the *Fisheries Acts* and regulations by foreign fishing vessels and fishermen in those parts of the coasts of Canada to which, by the Convention of 1818, they are admitted to privileges of taking or drying and curing fish concurrent with those enjoyed by British fishing vessels and fishermen.

You will receive instructions from the Customs Department authorizing you to act as an officer of the Customs, and in that capacity you are to see that the Revenue Laws and Regulations are duly observed.

#### JURISDICTION.

Your jurisdiction with respect to any action you may take against foreign fishing vessels and citizens engaged in fishing is to be exercised only within the limits of "three marine miles" of any of "the coasts, bays, creeks or harbours," of Canada.

With regard to the Magdalen Islands, although the liberty to land and to dry and cure fish there is not expressly given by the terms of the convention to United States fishermen, it is not at present intended to exclude them from these islands.

#### DUTIES.

It will be your duty to protect the inshore fisheries of Canada in accordance with the conditions laid down by the Convention of the 20th October, 1818, the first article of which provides:—

"Whereas, differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry and cure fish, on certain coasts, bays, harbours and creeks, of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties, that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind, on that part of the Southern Coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the Western and Northern Coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the Southern Coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbours and creeks, of the Southern part of the coast of Newfoundland, hereabove described, and of the Coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portions so settled, without previous agreement for such purpose with the inhabitants, proprietors or possessors of the ground."

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours, for the purpose of shelter and repairing of damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

By this you will observe, United States fishermen are secured the liberty of taking fish on the Southern Coasts of Labrador, and around the Magdalen Islands, and of drying and curing fish along certain of the Southern Shores of Labrador, where this coast is unsettled, or if settled, after previous agreement with the settlers or owners of the ground.

In all other parts the exclusion of foreign vessels and boats is absolute, so far as fishing is concerned, and is to be enforced within the limits laid down by the Convention of 1818, they being allowed to enter bays and harbours for four purposes only, viz.,—*for shelter, the repairing of damages, the purchasing of wood, and to obtain water.*

You are to compel, if necessary, the maintenance of peace and good order by foreign fishermen pursuing their calling and enjoying concurrent privileges of fishing or curing fish with British fishermen, in those parts to which they are admitted by the Treaty of 1818.

You are to see that they obey the laws of the country, that they do not molest British fishermen in the pursuit of their calling and that they observe the regulations of the fishery laws in every respect.

You are to prevent foreign fishing vessels and boats which enter bays and harbours for the four legal purposes above mentioned, from taking advantage thereof, to take, dry or cure fish therein, to purchase bait, ice, or supplies, or to transship cargoes, or from transacting any business in connection with their fishing operations.

It is not desired that you should put a narrow construction on the term "unsettled." Places containing a few isolated houses might not, in some instances, be susceptible of being considered as "settled" within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation and circumstances of the settlement. Private and proprietary rights form an element in the consideration of this point. *The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the wish of Her Majesty's Government that the rights of exclusion should not be strained,* must influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

Should interference with the pursuits of British fishermen or the property of Canadians appear to be inseparable from the exercise of such indulgence, you will withhold it and insist upon entire exclusion.

United States fishermen should be made aware that, in addition to being obliged, in common with those subjects of Her Majesty with whom they exercise concurrent privileges of fishing in Colonial waters, to obey the laws of the country, and particularly such Acts and Regulations as exist to ensure the peaceable and profitable enjoyment of the fisheries by all persons entitled thereto, they are peculiarly bound to preserve peace and order in the *quasi* settled places to which, by the liberal disposition of Canadian authorities, they may be admitted.

Wheresoever foreigners may fish in Canadian waters, you will compel them to observe the Fishery Laws. Particular attention should be directed to the injury which results from cleaning fish on board their vessels while afloat, and the throwing overboard of offals, thus fouling the fishing, feeding and breeding grounds. "The Fisheries Act" (Section 14) provides a heavy penalty for this offence.

Take occasion to enquire into and report upon any modes of fishing, or any practices adopted by foreign fishermen, which appear to be injurious to the fisheries.

#### GENERAL DIRECTIONS.

You will accost every foreign fishing vessel within the limits described, and if that vessel should be either fishing, preparing to fish, or should obviously have been fishing within the prohibited limits, you will, by virtue of the authority conferred upon you by your Commission, and under the provisions of the Acts above recited, seize at once (resort to force in doing so being only justifiable after every other effort has failed) any vessel detected in violating the law and send her or take her into port for condemnation.

Copies of the Acts of Parliament subjecting to seizure and forfeiture any foreign ship, vessel or boat which should be either fishing preparing to fish or should obviously have been fishing within the prohibited limits, and providing for carrying out the seizure and forfeiture are furnished herewith for your information and distribution.

Should you have the occasion to compel any foreign fishing vessels or fishermen to conform to the requirements of the "Fisheries Act and Regulations," as regards the modes and incidents of fishing, at those places to which they are admitted under the Convention of 1818, particularly in relation to ballast, fish offals, setting of nets, hauling of seines, and use of "trawls" or "bultows," more especially at and around the Magdalen Island, your power and authority under such cases will be similar to that of any other fishery officer appointed to enforce the Fishery Laws in Canadian waters (*Vide Fisheries Act*).

If a foreign ship, vessel or boat be found violating the Convention or resisting consequent seizure, and momentarily effects her escape from the vicinity of her capture or elsewhere, she remains always liable to seizure and detention if met by yourself in Canadian waters, and British waters everywhere if brought to account by Her Majesty's cruisers. But great care must be taken to make certain of the identity of any offending vessel to be so dealt with.

All vessels seized must be placed, as soon as possible, in the custody of the nearest Customs Collector, and information, with a statement of the facts, and the deposition of your sailing master, clerk, lieutenant or mate, and of two at least of the most reliable of your crew be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the violation of the law took place, and the ship, vessel or

boat was seized. Also corroborate the bearings taken, by sounding, and by buoying the place (if possible) with a view to actual measurement, and make such incidental reference to conspicuous points and land marks as shall place beyond doubt the illegal position of the seized ship, vessel or boat.

Omit no precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it is possible that foreign fishing craft may be driven into Canadian waters by violent or contrary winds, by strong tides, through misadventure, or some other cause independent of the will of the master and crew, you will consider these circumstances, and satisfy yourself with regard thereto before taking the extreme step of seizing or detaining any vessel.

On capture, it will be desirable to take part of the foreign crew aboard the vessel under your command, and place some of your own crew, as a measure of precaution, on board the seized vessel; first lowering the foreign flag borne at the time of capture. If your ordinary complement of men does not admit of this being done, or if because of several seizures the number of your hands might be too much reduced, you will, in such emergency, endeavour to engage a few trustworthy men. The portion of foreign crew taken on board the Government vessel you will land at the nearest place where a Consul of the United States is situated, or where the readiest conveyance to any American Consulate in Canada may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations or in port are met with, you should, if circumstances permit, go on board and confer with the Naval Commander, and receive any suggestions he may feel disposed to give, which do not conflict with those instructions, and afford him any information you may possess about the movements of foreign craft; also inform him what vessels you have accosted and where.

Do not fail to make a full entry of all circumstances connected with foreign fishing vessels, noting their names, tonnage, ownership, crew, port, place of fishing, cargo, voyage, and destination, and (if ascertainable) their catch. Report your proceedings as often as possible, and keep the Department fully advised on every opportunity, where instructions would most probably reach you at stated intervals.

Directions as to the stations and limits on which you are to cruise, and any further instructions that may be deemed necessary, will, from time to time, be conveyed to you.

Considerable inconvenience is caused by Canadian fishing vessels neglecting to show their colours. You will draw the attention of masters to this fact, and request them to hoist their colours without requiring to be hailed and boarded.

It cannot be too strongly urged upon you, nor can you too earnestly impress upon the officers and crew under your command, that the service in which you and they are engaged should be performed with forbearance and discrimination.

The Government relies on your prudence, discretion and firmness in the performance of the special duties entrusted to you.

I am, Sir,

Your obedient servant,

(Sd.) GEORGE E. FOSTER,  
*Minister of Marine and Fisheries.*

#### THE SEASON'S WORK AND THE WAY IT WAS PERFORMED.

To briefly summarize the work done by the Fisheries Protection Cruisers, during the season of 1886, I beg to state that, the S.S. "Lansdowne" was put in commission on the 20th March, cruising around the coasts of Nova Scotia, Bay of Fundy and Prince Edward Island, until the middle of September, when she was replaced by the S.S. "Acadia," purchased for this service.

The latter steamer continued to patrol on the same grounds until the close of the season, occasionally paying a flying visit to Bay des Chaleurs to see that the duties of the Cruiser stationed at the entrance were properly attended to.

The S.S. "La Canadienne" was engaged cruising in the Gulf of St. Lawrence, around Magdalen Islands and in Bay des Chaleurs, from the 17th May until the 27th October.

The Schooner "Houlett" was placed in commission on the 15th May and cruised, until the close of the season, mostly around the coast of Prince Edward Island and in the Straits of Northumberland.

The Schooner "Critic" began her work on the 15th June and continued until the 30th October, cruising off the coasts of Prince Edward Island.

The Schooner "Conrod" was put in commission on the 15th of May and continued patrolling the Strait of Northumberland until the 15th November.

The Schooner "Terror" was employed from the 19th May until the 4th December protecting the eastern coast of Nova Scotia.

The Schooner "General Middleton" was kept cruising in the Bay of Fundy from 11th May until the close of the season. The principal part of her duties consisted in protecting the valuable herring fisheries of Grand Manan and Campobello.

The Schooner "L. Lindsay" was stationed during the fishing season at the mouth of Bay des Chaleurs.

Reference to the Boarding Reports published at Appendix A will show the particulars of 780 official visits to vessels of the fishing fleet during the season of 1886. These visits were, with a few exceptions, to United States fishing vessels, some of which were boarded several times.

#### EXPENDITURE.

The expenditure in connection with the Fisheries Protection Service will be found in detail at page 50 of Appendix C. The aggregate expenditure for this service up to 31st December, 1886, was \$130,112.18, which amount includes the sum of \$40,000 paid for the purchase of the iron steamer "Acadia."

#### CONCLUSION.

It is gratifying to acknowledge the efficiency of the staff employed in connection with the above force, to whose individual zeal and discretion the successful enforcement of the Fishery Article of the Convention of 1818, and the general welfare of the Fisheries Protection Service are much indebted.

I have the honor to be, Sir,

Your most obedient servant,

JOHN TILTON,  
*Deputy Minister of Fisheries.*

DEPARTMENT OF FISHERIES,  
31st December, 1886.

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## APPENDICES.

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# APPENDIX A.

SCHEDULE of Fishing Vessels boarded during the Season of 1886 by Officers in command of the Fisheries' Police Cruisers.

COPY of Boarding Book of Schooner "L HOULETT," CHAS. M. LORWAY, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Susie Hooper....	D. Allen & Son.....	J. B. Signorth.....	73	12	Gloucester, Mass...	May 29...	Sand Point, N.S.	Fishing supplies. Bound to Grand Banks. In for shelter.
Annie M. Jordan	Rowe & Jordan.....	A. Haynes.....	91	14	do	June 11...	Canso, N.S.....	Fishing supplies. Bound to Banquereau. In for shelter.
G. P. Whitman.	Andrew Leighton....	B. A. Williams ...	89	16	do	do 15...	White Haven, N.S	75 brls. mackerel. 12 days out. In for shelter. Bound North Bay
W. D. Daisly....	J. Gorman & Co.....	J. Gorman.....	93	16	do	do 26...	Hawkesbury, N.S	Fishing supplies. Bound North Bay. In for shelter.
William Tell....	Ambrose White.....	J. H. Gilley.....	61	11	Bucksport, Me.....	do 27...	do	Lost main mast on Banquereau. Catch 250 qtls. cod. In for repairs. 33 days out.
Gertie May.....	C. A. Guptil.....	J. Doughty.....	96	14	Portland, Me.....	do 28...	Mulgrave, N.S...	Fishing supplies. Bound Grand Banks. Seeking bait.
Nellie N. Rowe.	E. Lewis.....	E. Lewis .....	79	17	Gloucester, Mass...	do 28...	do	Fishing supplies. Bound North Bay. In for shelter and water.
Centennial.....	D. C. & H. Babson...	McGary .....	110	16	do	do 28...	do	do
Orient.....	Chas. Lee .....	Chas. Lee .....	89	16	do	do 28...	Hawkesbury, N.S	do
John S. McQuinn	J. S. McQuinn .....	Chas. Martin.....	77	16	do	do 28...	do	do
W. Gafney.....	Joseph Smith.....	J. W. Thomas.....	70	16	do	do 28...	Port Mulgrave...	do
Martha C.....	L. Whalen.. ..	T. W. Cunningham..	75	16	do	do 28...	do	do
Samuel R. Crane	Jno. McDonough....	Owen Whitten.....	74	17	do	do 29...	Souris, P. E. I....	do
Ossipee .....	Cunningham & Thompson.....	John Johnson.....	68	16	do	do 29...	do	36 brls. mackerel. 21 days. North Bay. In for repairs.
Thos. F. Bayard	J. McDonald.....	J. McDonald .....	96	14	do	do 29...	do	12 brls. mackerel. 20 days. North Bay. In for shelter.
H. G. French....	J. W. Campbell.....	Jno. Chisholm.....	95	16	do	July 1...	do	Fishing supplies. Bound Grand Banks. Seeking bait. In for shelter.
					do	do 6...	Malpègue, P. E. I.	35 brls mackerel. 21 days. Caught principally north side. In for shelter.

Magaret S. Smith	A. M. Smith.....	L. H. Jewett.....	109	17	Portland, Me.....	July	6...	Malpèque, P.E.I.	200 brls. mackerel. 21 days out. Caught north side, P.E.I. In for shelter.
Ellen W. Sawyer	J. W. Sawyer.....	Jno. Orchard.....	103	16	do	.....	do	do	Just from home. Fishing supplies.
May Flower.....	Cunningham & Thompson.....	John A. McKinnon...	108	16	Gloucester, Mass...	do	do	do	In for shelter.
Orient.....	Charles Lee.....	Charles Lee.....	89	16	do	.....	do	do	20 brls mackerel. 5 days. North side Island. In for shelter.
W. Gafney.....	Joseph Smith.....	J. W. Thomas.....	70	16	do	.....	do	do	50 brls. mackerel. 7 days in Bay, north side. In for shelter.
Cecil H. Low....	Benj. Low .....	A. McKenzie.....	75	16	Gloucester, Mass...	do	do	do	5 brls. mackerel. 7 days in Bay, north side. In for shelter.
Eliza A. Thomas	C. D. Thomas.....	E. S. Bibber .....	88	16	Portland, Me.....	do	do	do	Just from home. Fishing supplies.
A. H. Harding...	George Norwood. ....	A. C. Adams .....	61	16	Gloucester, Mass...	do	do	do	12 brls. mackerel. 3 days in Bay, north side. In for shelter.
Charles H. Kelly	S. N. Mayo. ....	C. E. Sprague .....	65	15	Boston, Mass.....	do	do	do	Just from home. Fishing supplies.
Molly Adams...	Sol. Jacobs.....	Sol. Jacobs .....	117	17	Gloucester, Mass...	do	do	do	15 brls. mackerel. 3 days in Bay, north side. In for shelter.
Warren J. Crosby	Frank Carroll.....	Frank Carroll.....	107	17	do	...	do	do	250 brls. mackerel. 18 days in Bay. Caught principally north side P.E.I. In for shelter.
Nellie N. Rowe..	E. Lewis.....	E. Lewis.....	79	17	do	...	do	do	Just from home. Fishing supplies.
Ossipee.....	Cunningham & Thompson.....	John Johnson. ....	68	16	do	...	do	do	In for shelter.
Morning Star....	G. S. Mayo .....	P. P. Smith.....	76	15	Boston, Mass.....	do	do	do	24 brls. mackerel. North Bay. In for shelter.
Robin Hood .....	A. Manfield.....	A. C. Burnham.....	88	16	Gloucester, Mass...	do	do	do	15 brls. mackerel. 3 days in Bay, north side. In for shelter.
Moro Castle.....	McKerzie, Harding & Co.....	E. Joyce.....	88	17	do	...	do	do	30 brls. mackerel. 4 days in Bay, north side Island. In for shelter.
S. S. Novelty....	H. B. Joyce.....	H. B. Joyce.....	197	35	Portland, Me.....	do	12...	Off Tignish, P.E.I.	80 brls. mackerel. 14 days in Bay. north side Island. In for shelter.
Sam. R. Crane...	John McDonough .....	Owen Whitten.....	74	17	Gloucester, Mass...	do	do	do	400 brls. mackerel. 10 days in Bay, north side. Medical aid.
Hattie Evelyn...	J. A. Cromwell. ....	J. A. Cromwell.....	66	15	do	...	do	do	85 brls. mackerel. 20 days in Bay, north side. In for water.
S. S. Novelty....	H. B. Joyce.....	H. B. Joyce.....	197	25	Portland, Me. ....	do	15...	do	300 brls. mackerel. 28 days in Bay. Bound home. In for water.
Lizzie Smith ....	N. B. Rich.....	Thos. Newcombe....	77	16	Wellfleet, Mass. ...	do	16...	Cascumpec, P.E.I.	70 brls. mackerel. 13 days in Bay. Bound home. Short coals, in for wood, watching him closely.
Julia Ellen.....	J. R. Burns.....	J. E. Burns.....	43	14	Friendship, Me ....	do	24...	do	Just from home. Fishing supplies.
									In for shelter.
									225 brls. mackerel. 16 days in Bay. In for water.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "L. HOULETT," CHAS. M. LORWAY, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Henry L. Phillips	George Dennis	W. W. Wixon	76	15	Gloucester, Mass...	July 26...	Malpègue, P.E.I.	Just arrived. Fishing supplies.
Emma O. Curtis	Elisha Rich	Elisha Rich	61	14	Provincet'wn, Mass	do 26...	do	In for shelter. do
Eddie Davidson.	J. D. Snow	J. D. Snow	77	16	Wellfleet, Mass....	do 26...	do	do do
Ethel & Addie...	Lewis, Chase & Whittens	A. Dyer	86	18	Portland, Me.....	do 26...	do	do do
Christina Ellsworth	Jas. Ellsworth	Jas. Ellsworth	92	17	Eastport do ....	do 27...	do	do do
Margaret Smith.	A. W. Smith	L. W. Jewett.	109	18	Portland do .....	do 28...	do	do do
Leona	W. G. Pool	W. G. Pool	95	16	Gloucester, Mass..	do 28...	do	do do
Belle N. Naus	L. B. Naus	L. B. Naus	88	17	do ..	do 28...	do	do do
Newell B. Haws.	T. C. Kennedy	T. C. Kennedy	84	16	Wellfleet, Mass....	August 3...	do	Just from home. Fishing supplies.
J. hn S McQuinn	J. S. McQuinn	C. Martin	77	16	Gloucester, Mass...	do 6..	Tignish, P.E.I...	In for shelter. Fishing supplies.
Porter S Roberts	Andrew Leighton	W H Greenleaf	70	16	do ..	do 10...	CascumpecP, E.I	Just from home. Fishing supplies.
Andrew Burnham	Debut & Bagget	N. F. Blake	84	17	Boston, Mass .....	do 10...	do	2 days in Bay. 40 brls. mackerel.
A. R. Crittenden	Isaac Steele	J. E. Graham	81	16	Gloucester, Mass...	do 10...	do	In for shelter. 3 days in Bay. 125 b.l.s. mackerel.
Robert D. Rhodes	W. S. Jordan	J. Welsh	57	14	Portland, Me.....	do 10...	do	In for shelter. Fishing supplies.
Ellen Dale	R. G. Babbidge	R. G. Babbidge	55	14	North Haven, Me...	do 12...	do	Just from home. Fishing supplies.
Samuel R. Crane	John McDonough	Owen Whitten	74	17	Gloucester, Mass...	do 12...	do	In for shelter. 3 weeks in Bay. 270 brls. mackerel.
Ellen M. Adams.	F. Norwood	T. Parris	85	17	do ..	do 12...	do	In for shelter. 7 days in Bay. 100 brls. mackerel.
Fanny A. Sparling	A. M. Smith	O. S. Parris	81	16	Portland, Me.....	do 12...	do	In for shelter. 4 days in Bay. 18 brls. mackerel.
								16 days in Bay. 60 brls. mackerel.

Henry Morgan- than.....	C. A. Dyer. ....	H. M. McKown .....	85	16	do	...	Aug. 12...	Cascumpec, P. E. I.	5 days in Bay. 100 brls. mackerel. In for shelter.
W. H. Foye ....	Sylvanus Smith.....	J. M. Joyce.....	66	15	Gloucester, Mass...	...	do 12...	do	8 days in Bay. 110 brls. mackerel. In for shelter.
Chas. C. Warren	Amos A. Rackcliff...	W. Cartlett.....	103	16	do	...	do 12...	do	16 days in Bay. 200 brls. mackerel. In for shelter.
Ada R. Terry....	R. D. Terry.....	R. D. Terry.....	65	15	do	...	do 12...	do	10 days in Bay. 25 brls. mackerel. In for shelter.
Henry Dennis....	G. M. McLain.....	Fred. Orme.....	91	16	do	...	do 12...	do	15 days in Bay. 50 brls. mackerel. In for shelter.
John G. Whittier	W. H. Jordan.....	W. Thurston.....	99	17	do	...	do 12...	do	10 days in Bay. 50 brls. mackerel. In for shelter.
Waterfall .....	J. W. Sawyer.....	A. Long.....	70	16	Portland, Me. ....	.....	do 12...	do	3 days in Bay. 45 brls. mackerel. In for shelter.
Francis M. Lor- ing.....	O. B. Whitten.....	G. H. Brown.....	73	13	do	.....	do 12...	do	7 days in Bay. 30 brls. mackerel. In for shelter.
J. W. Campbell.	B. Low.....	O. Chisholm.....	79	15	Gloucester, Mass...	...	do 12...	Tignish, P. E. I.	14 days in Bay. 230 brls. mackerel. In for medical attendance.
Fleetwing . ....	B. Montgomery.....	W. G. Kiff .....	56	14	do	...	do 13...	Cascumpec, P. E. I.	3 weeks in Bay. 300 brls. mack- erel. In for shelter.
Stowell Sherman	S. T. Hatch .....	S. T. Hatch.....	87	15	Provincetown, do	do	do 13...	do	Just from home. Fishing supplies. In for shelter.
Lizzie M. Centre Comodore Foote .....	Jos. Smith.....	Jos. Smith.....	77	17	Gloucester, Mass...	...	do 13...	do	14 days in Bay. 325 brls. mackerel. In for shelter.
Eliza A. Thomas	Cunningham & Thompson.....	W. P. Gray.....	61	15	do	...	do 13...	do	3 weeks in Bay. 150 brls. mack- erel. In for shelter.
Phil. Sheridan...	C. D. Thomas.....	E. S. Bibber.....	88	16	Portland, Me.....	.....	do 13...	do	6 days in Bay. 50 brls. mackerel. In for shelter.
Pioneer.....	B. Low .....	John Man.....	93	15	Gloucester, Mass..	do	do 14...	do	Just from home. Fishing supplies. In for shelter.
Moro Castle ....	L. Whelan ....	J. S. Gittel.....	62	15	do	...	do 14...	do	6 days. West side. 4 barls. mack- erel. In for shelter.
Nellie M. Snow.	Mckenzie, Harding & Co.....	E. Joyce.....	87	17	do	...	do 14...	do	14 days. West side. 165 brls. mackerel. In for shelter.
Danl. Simmons.	J. S. Young.....	A. E. Snow.....	61	16	Wellfleet, Mass....	.....	do 14...	do	6 days. West side. No fish. In for shelter.
May Flower ....	M. Stenson .....	J. A. Gott.....	66	16	Swan's Island, Me.	do	do 14...	do	3 weeks. West side. 150 brls mackerel. In for shelter.
Fannie Bell.....	Cunningham & Thompson.....	J. McKinnon.....	108	16	Gloucester, Mass..	do	do 14...	do	6 days. West side. 75 brls. mack- erel. In for shelter.
Alice C. Jordan.	W. B. Combs.....	F. H. Hall.....	80	17	do	...	do 14...	do	5 days. West side. No fish. In for shelter.
Centennial .....	Rowe & Jordan. ....	J. Warren.....	81	17	do	...	do 14...	do	7 days. West side. 20 brls mack- erel. In for shelter.
	D. C. & H. Babson...	A. McGrey .....	110	17	do	...	do 15...	do	7 days. West side. 50 brls. mack- erel. In for shelter.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "L. HOULETT," CHAS. M. LORWAY, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHEN BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men		Date.	Place.	
W. Hy. Long-fellow .....	F. G. Wonsen .....	W. King.....	77	16	Gloucester, Mass...	Aug. 15...	Cascumpec, P. E. I.	7 days. West side. 10 brls. mackerel. In for shelter.
Gertie May.....	C. A. Guptil.....	J. Doughty.....	96	14	Portland, Me.....	do 15...	Off Kildare, P. E. I.	Just from home. Banker. Fishing supplies. Repairing sails.
John Nye.....	W. T. Joyce.....	W. T. Joyce.....	63	15	Swan's Island, Me.	do 16...	Malpèque, P. E. I.	14 days. West side. 115 brls. mackerel. In for shelter.
Edith Rewe.....	W. H. Jordan.....	J. S. Swim .....	80	17	Gloucester, Mass.	do 16...	do	28 days in Bay. 400 brls. mackerel. Catch between North Point and Miscou.
Lettie Hopkins...	E. J. Hopkins.....	E. J. Hopkins.....	46	13	Vinal Haven do...	do 16...	do	4 days. West side. No fish. In for shelter.
Alice P. Higgins	N. S. Higgins.....	A. W. Cobb.....	85	15	Wellfleet, Mass. ...	do 16...	do	5 days. West side. No fish. In for shelter.
Cynosure.....	A. R. Nickerson .....	T. G. Rush.....	69	17	Booth Bay, Me.....	do 16...	do	Just arrived. No fish. In for shelter. Fishing supplies.
Rush Light.....	F. G. Wonsen .....	J. S. Kenney.....	63	14	Gloucester, Mass...	do 16...	do	3 days. West side. No fish. In for shelter.
Solitaire.....	H. B. Joyce.....	J. S. Seavey.....	85	17	Portland, Me.....	do 16...	do	Just arrived. Fishing supplies. No fish. In for shelter.
Uncle Joe .....	W. T. Maddocks .....	Irwin Pierce.....	60	15	Southport, Me.....	do 16...	do	10 days. West side. 50 brls. mackerel. In for shelter.
Ossipee.....	Cunningham & Thompson.....	J. Johnson.....	68	15	Gloucester, Mass...	do 16...	do	Just arrived. Fishing supplies. No fish. In for shelter.
Ellen W. Sawyer	J. W. Sawyer.....	John Orchard.....	103	18	Portland, Me.....	do 16.	do	do
Gracie H. Benson	A. B. Rich. ....	B. K. Benson.....	88	15	Provincet'wn, Mass	do 16...	do	4 days. West side. No fish. In for shelter.
Flora Dillaney...	A. E. Whalen.....	J. Jewett.....	77	16	Gloucester, Mass...	do 16...	do	14 days. West side. 130 brls. mackerel. In for shelter.
John M. Ball.....	N. W. Freeman.....	N. W. Freeman.....	81	15	Provincet'wn Mass	do 16...	do	6 days. West side. 30 brls. mackerel. In for shelter.
Annie Sargent...	O. B. Whitten.....	W. Fisher .....	63	15	Portland, Me.....	do 16...	do	7 days. West side. 25 brls. mackerel. In for shelter.

Pendragon.....	A. Mansfield.....	J. Mason .....	68	16	Gloucester, Mass...	do	16...	do	3 days. West side. No fish. In for shelter.
Ethel Maud. ....	G. H. Martin.....	G. H. Martin.....	77	16	do	do	16...	do	7 days. West side. No fish. In for shelter.
Margaret Smith..	A. M. Smith.....	L. W. Jewett .....	109	18	Portland, Me.....	do	16...	do	21 days. West side and off Miscou. 270 brls. mackerel. Shelter.
SS. Novelty.....	H. B. Joyce.....	H. B. Joyce.....	197	36	do	do	16...	do	6 days in Bay. No fish. In for shelter.
W. Gafney .....	Jos. Smith.....	J. M. Thomas. ....	70	16	Gloucester, Mass..	do	16...	do	14 days. West side. 50 brls. mackerel. In for shelter.
Sir Knight. ....	W. D. Maddocks....	Mark Rand.....	76	17	Southport, Me.....	do	16...	do	14 days. West side. 40 brls. mackerel. In for shelter.
Fred. P. Frye....	S. Smith.....	S. Smith .....	81	17	Gloucester, Mass..	do	17...	do	30 days in Bay. Bradelle Bank. 415 brls. mackerel. Shelter.
Druid.....	J. S. McQuin.....	J. S. McQuin.....	95	6	do	do	17...	do	From Gloucester bound to Magdalen Islands. General cargo and shelter.
Elsie Smith.....	A. M. Smith.....	Enoch Bulger.....	106	17	Portland, Me.....	do	18...	do	30 days in Bay. North Point and Miscou. 300 brls. mackerel. Water and shelter.
Cynosure.....	A. R. Nickerson.....	T. G. Rush .....	69	17	Booth Bay, Me.....	do	19...	New London, P.E.I.....	In for shelter. Grounded on Bar. Waiting high water to get to sea.
Wildfire.....	Geo. Steel.....	P. McFarlane.....	103	17	Gloucester, Mass...	do	20...	Off Cascumpec, P.E.I.....	36 days in Bay. North Point to Tracadie. 300 brls. mackerel.
Maggie & Lilly..	John Parr & Son.....	John Gerry.....	77	16	do	do	20...	do	4 days West side. 19 brls. mackerel. Hove to, inside; ordered off.
Albt H Harding	Geo. Norwood.....	A. C. Adams.....	61	16	do	do	23...	Malpègue, P.E.I.	12 days West side. No fish. In for shelter.
John L. Presson	Geo. Clarke.....	W. M. Harty... ..	88	17	do	do	23...	do	9 days. West side. No fish. In for shelter.
Govr. Butler....	W. H. Gardner.....	J. Oliver.....	87	16	do	do	23...	do	20 days. North side. 200 brls. mackerel. In for shelter.
Addison Centre.	J. E. Margison.....	S. A. Rowe.....	71	15	do	do	23...	do	2 days in Bay. No fish. In for shelter.
Canopus.....	E. A. Bradley .....	S. McPhee.....	68	16	do	do	23...	do	do
Natham Cleaves.	P. Hickman .....	P. Hickman... ..	75	15	Wellfleet, Mass....	do	23...	do	28 days. West side. 72 brls. mackerel. In for shelter.
W. H. Foye.....	S. Smith.....	Isaac Joyce.....	66	15	Gloucester, Mass..	do	23...	do	28 days. West side. 170 brls. mackerel. In for shelter.
Bertha Pierce....	John Akins.....	John Akins.....	90	16	do	do	23...	do	29 days. North side and Bradelle. 300 brls. mackerel. In for shelter.
Mary E Wolfe...	Farriz S. Groves.....	Simon Barie.....	64	15	Wellfleet, Mass....	do	23...	do	49 days West side and Miscou. 160 brls. mackerel. In for shelter.
Willie H. West..	Atkins & Son.....	F. S. Groves.....	64	14	Provincet'wn, Mass	do	23...	do	7 days. North side. 20 brls. mackerel. In for shelter.
Asa H. Pervere.	J. H. Freel.....	A. A. Groves.....	83	17	Wellfleet, Mass....	do	23...	do	21 days. North side. 70 brls. mackerel. In for shelter.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "L. HOULETT," CHAS. M. LORWAY, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Melissa D. Robins	Lincon & Allen.....	J. E. Robins .....	86	17	Portland, Me.....	Aug. 23...	Malpèque, P.E.I.	23 days. North side. 280 brls. mackerel. In for shelter.
Orient.....	Chas. Lee ....	Chas. Lee.....	89	16	Gloucester, Mass..	do 23...	do	4 days in Bay. No fish. In for shelter.
J. S. McQuin....	J. S. McQuin....	Chas. Martin.....	77	16	do	do 23...	do	21 days. West side. 90 brls. mackerel. In for shelter.
Argonaut .....	J. G. Tarr.....	J. Killian.....	70	16	do	do 23...	do	3 days in Bay. No fish. In for shelter.
John G. Whittier	W. Jordan.....	W. Thurston .....	99	17	do	do 23...	do	21 days. North side and Bradell. 118 brls mackerel. Shelter.
Hattie D. Lonnell	D. S. Lonnell. ....	D. S. Lonnell.....	80	16	Provincet'wn, Mass	do 23...	do	10 days. Escuminac. 60 brls. mackerel. In for shelter.
Nil Desperandum	J. M. Pevere.....	S. M. Pevere.....	76	15	Wellfleet, Mass.....	do 23...	do	20 days. North side. 112 brls. mackerel. In for shelter.
J. S. Garland....	S. Cunningham.....	O. T. Keen.....	76	16	Gloucester, Mass..	do 23 ..	do	10 days. West side. No fish. In for shelter.
Isaac A. Chapman.....	H. Babson....	B. F. Sprague .....	80	16	do	do 23...	do	9 days. Westside. 6 brls. mackerel. In for shelter.
Nellie M. Davis.	A. Melanson.....	A. Melanson.....	89	16	do	do 23...	do	35 days. West side and Miscou. 150 brls. mackerel. In for shelter.
Eddie Davidson.	J. D. Snow.....	J. D. Snow .....	77	16	Wellfleet, Mass.....	do 23...	do	27 days. West side Escuminac and Miscou. 95 brls. mack'l. Shelter.
Gertrude Summers .....	N. S. Snow .....	N. S. Snow .....	61	15	do	do	do	21 days. West and north side. 42 brls mackerel. In for shelter.
Paul & Elsie....	J. M. Pope.....	W. M. Benson .....	63	15	Swampscott, Mass	do 23...	do	3 days. North side. 10 brls. mackerel. In for shelter.
Edward E. Webster.....	Sol. Jacobs .....	S. Hudder.....	93	16	Gloucester, Mass...	do 23...	do	3 days in Bay. No fish. In for shelter.
Nancy C. Wallson.....	D. Y. Purse.....	D. Y. Purse.....	75	15	Wellfleet, Mass ....	do 23...	do	21 days. North side. 60 brls. mackerel. In for shelter.
Alice C. Fox....	F. H. Smith.....	S. S. Lewis.....	59	15	North Haven, Me..	do 23...	do	22 days. West and north side. 25 brls. mackerel. In for shelter.

Lady Elgin.....	W. F. Medstant.....	G. W. Pie	72	15	Southport, Me .....	do	23...	do	... 14 days in Bay. 46 brls mackerel. In for shelter.
Ellen M. Crosby.	M. Stenson .....	J. S. Smith.....	63	16	Swan Island, Me...	do	23...	do	... 21 days. West side. 128 brls. mackerel. In for shelter.
Chas. R. Washington.....	J. S. Snow .....	J. S. Snow .....	78	15	Wellfleet, Mass. ....	do	23...	do	... 20 days. West side. 11 brls. mackerel. In for shelter.
Frank D Rich...	C. A. Gorham.....	C. A. Gorham .....	100	16	do .....	do	23...	do	... 28 days. North and west side. 128 brls. mackerel. Shelter.
Daniel Symons...	M. Stenson .....	John Gotts.....	66	16	Oastine, Me.....	do	23...	do	... 28 days in Bay. North and west side. 280 brls. mackerel. Shelter.
Sarah P. Ayre...	Z. Tarr .....	S. S. Nickerson.....	67	16	Gloucester, Mass..	do	23...	do	... 3 days in Bay. No fish. In for shelter.
Mattie Winship	J. S. Ayre.....	J. Ternin.....	73	16	do .....	do	23...	do	... 14 days. West side. 8 brls. mackerel. In for shelter
Grover Cleveland	W. F. LeButts.....	J. E. Conary .....	87	16	Boston, Mass .....	do	23...	do	... 38 days. West side. 160 brls mackerel. In for shelter.
Robin Hood.....	A. Mansfield.....	A. C. Burnham .....	88	16	Gloucester, Mass...	do	23...	do	... 14 days. West side. 28 brls. mackerel. In for shelter.
John W. Bray...	F. G. Wonson.....	G. E. McLean.....	79	16	do .....	do	23...	do	... 3 days in Bay. No fish. In for shelter.
Robt. J Edwards	J S. Ayre.....	A. Dicker .....	80	16	do .....	do	23...	do	... do
Emma M. Dyer.	S. Dyer.....	Stephen Dyer.....	77	16	Vinal Haven, Mass	do	23...	do	... 7 days. West side. 5 brls. mackerel. In for shelter.
Henry L Phillips	Geo. Dennis.....	W. W. Nixon. ....	76	15	Gloucester, Mass..	do	23...	do	... 23 days. North side and Bradell. 180 brls. mackerel. Shelter.
Ralph Hodgdon.	J. F. Hodgdon .....	J. F. Hodgdon .....	85	17	do .....	do	23...	do	... 14 days. North side. 35 brls. mackerel. In for shelter.
Effie T. Kemp...	W. E. Kemp .....	John Nixon.....	76	16	Wellfleet, Mass ....	do	23 ..	do	... 21 days. West side. 144 brls. mackerel. In for shelter
Henri N. Woods.	G. Norwood & Son...	H. McEachern .....	84	16	Gloucester, Mass..	do	23...	do	... 15 days. Bradell Bank. 70 brls. mackerel. In for shelter.
Wm. H. Jordan.	Jas. Anderson .....	S. B. Cole.....	86	16	do .....	do	23...	do	... 9 days. West side. No fish. In for shelter.
Highland Light.	J. H. Rider.....	J. H. Rider.....	89	15	Wellfleet, Mass ....	do	23...	do	... 28 days. West side. 175 brls. mackerel. In for shelter.
Pleiades.....	F. W. Snow.....	F. W. Snow .....	77	15	do .....	do	23...	do	... 17 days. West side. 10 brls. mackerel. In for shelter.
Walter L. Rich.	Obediah Rich.....	Obediah Rich.....	79	15	do .....	do	23...	do	... 20 days. Escuminac and Misco. 147 brls. mackerel. Shelter.
C. F. Atwood....	M. Burrows.....	M. Burrows .....	69	16	do .....	do	23...	do	... 21 days. West side. 130 brls. mackerel. In for shelter.
Eddie Pierce.....	C. A. Dyer .....	F. D. McKown.....	91	17	Portland, Me.....	do	23...	do	... 10 days. Escuminac. 60 brls. mackerel. In for shelter.
Richd. S. Newcomb.....	A. H. Nilnil. ....	A. H. Nilnil. ....	69	14	Provincet'wn, Mass	do	23...	do	... 3 days in Bay. No fish. In for shelter.
Alice.....	J. B. Rich.....	J. B. Rich .....	84	16	do .....	do	23...	do	... 17 days. West side. 17 brls. mackerel. In for shelter.
Martha C. ....	L. Whalen .....	T. Cunningham .....	76	16	Gloucester, Mass..	do	23...	do	... 14 days. North side. 100 brls. mackerel. In for shelter.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "L. HOULETT," CHAS. M. LORWAY, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Frank Foster....	Frank Foster.....	Frank Foster .....	56	15	Gloucester, Mass..	Aug. 23...	Malpègue, P.E.I.	15 days. West side. 12 brls mackerel. In for shelter.
Cora Louisa.....	S. Nickerson. ....	O. R. Harris. ....	74	16	Booth Bay, Me....	do 23...	do	28 days. Escuminac and Misco. 130 brls. mackerel. shelter.
A. M. Burnham..	Eli Wilson.....	Eli Wilson.....	60	15	Gloucester, Mass..	do 23...	do	9 days in Bay. 20 brls. mackerel. In for shelter.
Druid .....	J. S. McQuin.....	J. S. McQuin.....	95	6	do	do 24...	do	Arrived from Magdalen Islands with clearance for Gloucester. Part of original cargo and 200 brls. mackerel received from American fishermen. Shelter.
Mary A. Clark...	Geo. Clark & Co....	H. F. Brown.....	79	18	do	do 29...	Cascumpec, P.E.I.	28 days. West and North side and Misco. 160 brls. mackerel. Water.
A. S. & R. Hammond .....	A. S. Hammond.....	A. S. Hammond.....	66	14	Chatham, Mass....	do 30...	Malpègue, P.E.I.	11 days. North side. 45 brls. mackerel. In for shelter.
Kate & Florence.	T. B. Baker.....	J. Kelley.....	96	16	Dennis, Mass.....	do 30...	do	29 days. West and North side. 240 brls. mackerel. Shelter.
Laura Belle.....	J. D. Sparker. ....	A. C. Braner.....	77	16	New York.....	do 30...	do	20 days. North Point and Escuminac. 85 brls. mackerel. In for shelter.
Roulette.....	W. F. Weld.....	T. S. Cole.....	79	16	Philadelphia.....	do 30...	do	15 days. North side and Misco. No fish. In for shelter.
Charlotte Brown	T. B. Baker.....	E. H. Taylor.....	79	16	Dennis, Mass.....	do 30...	do	28 days. West and North side. 250 brls. mackerel. Shelter.
G. P. Whitman.	A. Leighton.....	B. A. William .....	89	16	Gloucester, Mass..	do 30...	do	25 days. West side and Misco. Escuminac. 460 brls. mackerel. Shelter.
Newell B. Hanes	T. C. Kennedy. ....	F. C. Kenney.....	84	16	Wellfleet, Mass....	do 30...	do	27 days. West and North side. 130 brls. mackerel. Shelter.
Leona.....	W. G. Poole.....	W. G. Poole.....	95	16	Gloucester, Mass..	do 30...	do	34 days. West and North side. 320 brls. mackerel. Shelter.

Ambrose H. Knight .....	J. C. Poole.....	W. E. Pinkham.....	87	17	Booth Bay, Me.....	do	30...	do	30 days. West and North side. 140 brls. mackerel. In for shelter.
J. M. Plummer...	J. E. Fickett. ....	J. L. Clark.....	95	16	Portland, Me.....	do	30...	do	30 days. West and North side. 140 brls. mackerel. Shelter.
Alice P. Higgins	N. Higgins .....	Alvin Cobb, .....	87	15	Wellfleet, Mass .....	do	30...	do	19 days. West and North side. 65 brls. mackerel. Shelter.
Jennie Seaverns	J. T. Tupper. ....	J. T. Tupper.....	107	17	Gloucester, Mass...	do	30...	do	4 days. North side. No fish. In for shelter.
Frank Butler....	G. M. Long... ..	Jacob Rich.....	74	16	New London, Conn	do	30...	do	31 days. West and North side. 70 brls. mackerel. Shelter.
Golden Hind.....	W. H. Jordan .....	R. Cameron.....	70	15	Gloucester, Mass...	do	30...	do	8 days. East Point. 100 brls. mackerel. In for shelter.
Hattie L. New- man.....	D. Allen, jun.....	A. W. Richards.....	93	16	do do ..	do	31...	do	35 days. West and North side. 125 brls. mackerel. Water and shelter.
Edith S. Whalen	M. Whalen.....	Pius McDonald. ....	78	17	do do ..	do	31...	do	3 days in Bay. No fish. In for shelter.
Highland Light.	John H. Ryder.....	John H. Ryder.....	87	16	Wellfleet, Mass...	Sept. 1...	Off East Point...	do	Boarded and seized. Violation Fisheries Act.
Maggie & Lilly..	John Pew & Son.....	John Geary.....	77	16	Gloucester, Mass..	do	8...	do	25 days. North Point and Escuminac. 50 brls. mack'l. Shelter.
Hattie B. West...	W. T. Merchant.....	C. H. Jackman .....	53	14	do do ..	do	8...	do	16 days. East Point. 50 brls. mackerel. Shelter and water.
Henry Dennis....	G. McLean.....	Fred. Orme.....	91	16	do do ..	do	13...	Hawkesbury, N.S	42 days. North side. 100 brls. mackerel. Bound home.
Miantonomah....	C. Staples.....	C. Staples.....	73	16	Swan's Island, Me.	do	13...	do	42 days. North side. 230 brls. mackerel. Bound home.
Leona.....	W. G. Poole .....	W. G. Poole.....	95	16	Gloucester, Mass...	do	13...	do	46 days. North side. 350 brls. mackerel. Bound home.
Fanny S. Orme .	F. Orme.....	L. Kimball. ....	81	17	Southport, Me .....	do	13...	do	28 days. North side. 162 brls. mackerel. Bound home.
Vesta.....	E. A. Bradley.....	John S. Staples.....	79	16	Gloucester, Mass..	do	15...	Souris, P.E.I....	12 days. East Point. No fish. In for shelter.
Gertie Evelyn....	Andrew Leighton...	D. McIntyre .....	81	16	do do ..	do	15...	do	30 days. North side. 118 brls. mackerel. Shelter and repairs.
Fannie Spurling.	A. M. Smith.....	C. S. Parris .....	81	16	Portland, Me.....	do	15...	do	49 days. North and west side. 165 brls. mackerel. In for shelter.
Carrie E. Parsons	McKenzie, Hardy & Co.....	A. T. Greenlow.....	80	16	Gloucester, Mass..	do	15...	do	15 days. North side. No fish. In for shelter.
Wm. H. Wellington.....	J. A. S. Steele.....	J. D. S. Nickerson...	81	15	do do ..	do	15...	do	44 days. North and west side. 180 brls. mackerel. In for shelter.
Ethel Maud.....	G. H. Martin. ....	G. H. Martin.....	77	16	do do ..	do	15...	do	36 days. North and west side. 270 brls mack'l. Shelter and repairs.
Mary H. Thomas	H. Thomas.....	H. Thomas.....	93	17	do do ..	do	15...	do	27 days. North and west side. 25 brls. mackerel. In for shelter.
Uncle Joe.....	W. T. Maddocks....	I. W. Pierce .....	60	15	Southport, Me.....	do	15...	do	40 days. North and west side. 166 brls. mackerel. In for shelter.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "L. HOULETT," CHAS. M. LORWAY, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Rush Light.....	F. G. Wonson .....	J. S. Kenney.....	63	14	Gloucester, Mass..	Sept. 15...	Souris, P.E.I....	35 days. North side. 50 brls mack- erel. In for shelter.
Golden Hind....	W. H. Jordan.....	R. Cameron ....	70	15	do	do 15...	do	23 days. East Point. 200 brls mackerel. In for shelter.
John J. Whittier	do .....	W. Thurston.....	99	17	do	do 15...	do	43 days. North side and Bradell. 160 brls. mackerel. Shelter.
Jane & Essie....	J. M. Pope.....	W. M. Benson....	63	15	Swampscott, Mass	do 15...	do	26 days. North side. 20 brls. mackerel. In for shelter.
Hattie Evelyn...	J. A. Cromwell.....	J. A. Cromwell.....	66	15	Gloucester, Mass...	do 15...	do	35 days. North side and West Point. 100 brls. mack'l. Shelter.
Robt. J. Edwards	J. S. Ayre.....	A. Dicker.....	80	16	do	do 15...	do	25 days. North and west side. 15 brls. mackerel. In for shelter.
Harry G. French	J. W. Campbell.....	John Chisholm.....	95	16	do	do 15...	do	47 days. North and west side and East Point. 460 brls. mackerel. In for shelter.
Edward Rich....	R. R. Fruman.....	J. Newall.....	70	16	Wellfleet, Mass.....	do 15...	do	21 days. North side. 10 brls. mack- erel. In for shelter.
Col. J. H. French	John Chisholm .....	W. Harris .....	78	16	Gloucester, Mass..	do 15	do	42 days in Bay. 15 brls. mackerel. Shelter.
Richard S. New- comb.....	A. H. Nilnil.....	A. H. Nilnil .....	69	16	Provincetwn, do	do 15...	do	26 days in Bay. 34 brls. mackerel. In for shelter.
F. R. Walker....	James McDonald....	J. McDonald....	67	14	Gloucester, do	do 18...	do	17 days out. 10 brls. East Point. Shelter.
Poineer.....	James C. Tarr & Bros	John Uritchett...	62	16	do	do 18...	do	42 days out. 114 brls. mackerel. North side. Shelter.
A. M. Burnham..	E. W. Wilson.....	E. W. Wilson.....	60	15	do	do 18...	do	30 days out. 120 brls. mackerel. North side. Shelter.
J. W. Campbell.	B. Row .....	C. Chisholm.....	79	15	do	do 18...	do	60 days out. 300 brls. mackerel. North side and Escuminac. Shelter.
Belle Franklin ...	Frederick G. Wanson	H. R. Kendricks.....	75	16	do	do 18..	do	42 days out. 160 brls. mackerel. North Point. Shelter.

Carrie G. Crosby	James A. Eaton .....	Mulion Atkinson.....	58	16	Wellfleet, Mass.....	do	18...	do	14 days out. 10 brls. mackerel. East Point. Shelter.	.....
Martha C. ....	Leonard Walm. ....	Thos. Cunningham.	75	16	Gloucester, Mass...	do	18...	do	29 days out. 148 brls. mackerel. North side. Shelter.	.....
M. Smith .....	Harry Butler.....	S. W. Jewett.....	109	18	Portland, Me.....	do	18...	do	19 days out. 352 brls. mackerel. North and West side. Shelter.	...
M. A. Bradley...	E. A. Bradley .....	John F. Vantin.....	72	16	Gloucester, Mass...	do	18...	do	16 days. 10 brls. mackerel. East Point. Shelter.	.....
H. Longfellow...	F. G. Wanson.....	W. W. King.....	77	16	do do	do	18...	do	13 days out. 57 brls. mackerel. North side. Shelter.	.....
W. M. Gaffney..	Jos. Smith.....	Jas. W. Thomas.....	70	16	do do	do	18...	do	45 days out. 200 brls. mackerel. North side. Shelter.	...
Pendragon. ....	A. Mansfield .....	J. Nason.....	68	16	do do	do	18...	do	37 days. 215 brls. mackerel. North side. Shelter.	.....
Henry Friend...	Wingfield W. Staples	W. W. Staples . ....	64	16	Swan's Island, Me	do	18...	do	34 days. 86 brls. mackerel. East Point. Shelter.	.....
Sir Knight .....	W. T. Maddocks.....	Mark Rand.....	76	17	Southport, Mass...	do	18...	do	12 days. 220 brls. mackerel. North side. Shelter.	.....
Alice.....	John Chase.....	J. Chase.....	85	14	Provincet'wn, do	do	18...	do	34 days out. 100 brls. mackerel. North and West side. Shelter.	.....
W. D. Daisley....	John E. Gorman.....	J. E. Gorman .....	93	16	Gloucester, do	do	18...	do	18 days out. 210 brls. mackerel. North and West side. Shelter.	.....
Knight Templar.	Geo. Steel.....	Nelson McKinney....	69	16	do do	do	18...	do	15 days out. No fish. Shelter.	.....
Edith S. Whalen	A. E. Whalen .....	Pius McDonald.....	78	17	do do	do	18...	do	20 days out. 30 brls. mackerel. East Point. Shelter.	.....
Oreca.....	Andrew Leighton....	S. W. Smith.....	82	16	do do	do	18...	do	42 days out. 255 brls. mackerel. North and West side. Shelter.	.....
Morning Star....	T. L. Mayo.....	P. P. Smith.....	76	16	Boston, Mass. ....	do	18...	do	20 days out. 45 brls. mackerel. North side. Shelter.	.....
Emma W. Brown	J. W. McFarlane. ...	J. W. McFarlane....	73	16	Gloucester, Mass...	do	20 ..	do	13 days out. 44 brls. mackerel. Magdalen's. Shelter.	....
Electa A. Eaton.	E. A. Bradley. . ....	H. Eaton.....	73	15	do do	do	21...	do	45 days out. North and West side. 170 brls. mackerel. Shelter.	.....
Jenn. Armstrong	F. Orme & Son.....	C. A. Thompson.....	66	15	Southport, Mass...	do	21...	do	21 days out. 25 brls mackerel. North and West side. Shelter.	.....
Howard Holbr'k.	Oakes & Foster....	C. Keen.....	92	16	Gloucester, Mass...	do	25...	do	35 days out. North and West side. 178 brls mackerel. Shelter.	.....
H. B. Griffin ...	D. Allen, jun.,.....	J. E. Sighworth.....	117	17	do do	do	28...	do	18 days out. North side and Margaree. 240 brls. Shelter.	.....
Mary Fernald....	Z. Tarr.....	J. T. Simpson .....	76	16	do do	do	28...	do	28 days out. North and West side and Margaree. 50 brls. mackerel. Shelter.	.....
Orient.....	Chas. Lee.....	Chas. Lee .....	89	16	do do	Oct.	1...	do	49 days. North side. 150 brls. mackerel. Shelter.	.....
Herman Babson.	C. J. Lawson .....	Charles Smith .....	95	16	do do	do	2...	do	18 days. No fish. Shelter.	....
W. J. Crosby....	F. Carroll .....	F. Carroll.....	107	16	do do	do	2...	do	49 days. North side. 215 brls. mackerel. In for shelter.	.....

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NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Mary A. Clark...	Geo. Clark.....	H. F. Brown.....	79	16	Gloucester, Mass..	Oct. 2...	Souris, P.E.I.....	65 days. North and west side. 200 brls. mackerel. In for shelter.
Eleazer Boynton	John L. Stanley .....	G. B. Martin.....	84	16	do	do	do	18 days. No fish. In for shelter.
Fanny W. Freeman.....	Geo. Clark.....	M. Whalen .....	90	16	do	do	do	14 days. North side. 14 brls. mackerel. In for shelter.
Herald of the Morning.....	Charles N. McLean.	C. N. McLean.....	68	16	do	do	do	49 days. Escuminac 110 brls. mackerel. In for shelter.
Lizzie W. Hamlin.....	H. A. Lewis.....	Jesse Lewis.....	71	15	do	do	North Sydney, C.B.	21 days. East Point and Margaree. 230 brls. mackerel. Shelter.
Wm. F. Hutchings.....	Geo. Friend .....	J. M. Bearse .....	59	14	do	do	do	56 days. North Bay (Hooking). 40 brls. mackerel. Shelter.
Sarah H. Prior...	P. H. Prior.....	S. McLaughlin.....	97	16	Boston, Mass.....	do	do	53 days. Escuminac and north side. 160 brls. mackerel. Shelter.
Spencer F. Baird	David Tarr .....	J. A. Viviot .....	74	16	Gloucester, Mass..	do	do	42 days. North Bay. 10 brls. mackerel. In for shelter.
Molly Adams...	Sol Jacobs.....	S. Jacobs.....	117	17	do	do	do	35 days. North side and Sydney. 160 brls. mackerel. Shelter.
Belle N. Nauss...	L. B. Nauss.....	L. B. Nauss.....	83	17	do	do	do	35 days. North side and Sydney. 60 brls. mackerel. Shelter.
Richard Lester...	James Tarr.....	John Vibert .....	69	16	do	do	do	49 days. East Point and Margaree. 150 brls. mackerel. Shelter.
Jennie Saroms...	J. I. Tupper.....	J. I. Tupper .....	107	17	do	do	do	56 days. East Point and Cape North. 130 brls. mack'l. Shelter.
Mary A. Clark...	Geo. Clark & Co....	H. F. Brown.....	79	16	do	do	do	84 days. North Bay. 237 brls. mackerel. In for shelter.
Carrie E. Parsons.....	McKenzie, Harding & Co .....	A. T. Greenlow .....	80	16	do	do	do	59 days. East Point. Off Sydney Harb 108 brls. mack'l. Shelter.
A. R. Orittenden	Isaac Steel .....	J. E. Graham.....	81	16	do	do	do	38 days. East Point and Margaree. 360 brls. mackerel. Shelter.

J. E. Garland ...	S. Cunningham. ....	C. T. Keen.....	76	16	do	...	do	23...	do	.....	72 days. East Point and Margaree and Sydney. 150 brls. mackerel.
Lizzie M. Centre	Joseph Smith. ....	Joseph Smith.....	77	17	do	...	do	23...	do	.....	23 days. Cape North and Sydney. 200 brls. mackerel. Shelter.
A. H. Johnson...	G. Johnson. ....	J. Comeau.....	62	12	Gloucester, Mass...	Dec.	9...	9...	Sand Point, N.S.	60,000 lbs salt cod. Banquereau. Bound home. Short provisions.	
L. Sayward ....	G. Sayward .....	Medo Rose.....	64	12	do	...	do	9...	do	.....	Bound Canso Bank. In for repairs. Fishing supplies.
L. J. Jones. ....	J. H. Parsons.....	H. Thompson .....	60	12	do	...	do	10...	do	.....	35,000 lbs. salt cod. Roseway Bank. Bound home In for repairs
Midnight .....	B. M. Grover .....	P. G. Hodgson .....	66	12	do	...	do	11...	do	.....	Fishing supplies. Bound to La Have Bank. Shelter.
S. A. Parkhurst.	E. Jackson].....	E. Royal .....	50	10	do	...	do	11...	do	.....	40,000 lbs. cod. Canso Bank. Bound home. In for repairs.
Nellie Swift.....	S. L. Swift .....	M. McAskill.....	134	19	Provinceto'n, Mass	do	do	13...	do	.....	10,000 lbs. fresh fish. Roseway Bank. In for repairs.
Tragabiggand ...	Wanson Bros.....	Mannel Rose .....	64	12	Gloucester, Mass..	do	do	13...	do	.....	10,000 lbs. salt cod. Western Banks. In for shelter.
P. D. Smith. ....	Oakes & Foster.....	W. Bine.....	66	12	do	...	do	14...	do	.....	50,000 lb. salt cod Middle Ground Bound home. In for shelter.
D. D. Winchester	J. O. Proctor.....	J. Husing .....	80	16	do	...	do	14...	do	.....	Fresh haddock Just from home. Fishing supplies, shelter & water
W. J. Crosby....	Frank Carrol. ....	W. Hudder].....	107	7	do	...	do	15...	do	.....	Trader. Bound to Philadelphia. In for shelter.
Barriconta.....	Roe & Jordan .....	— Keene.....	68	12	do	...	do	15...	do	.....	40,000 lbs. salt cod. Western Banks. Bound home. Shelter and water.
Iolanthe.. .....	J. O. Proctor. ....	W. Brinnick.....	70	13	do	...	do	15...	do	.....	40,000 lbs. salt cod. Western banks. In for shelter and water.
Gertie May.....	C. A. Guptell .....	J. Doughty .....	96	14	Portland, Me. ....	do	do	16...	do	.....	Bound to Western Banks for fresh halibut. In for shelter.

CHAS. M. LORWAY,  
*Commander of the Government Fisheries Protection Schooner "L. Houlett."*

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "CRITIC," Wm. McLAREN, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Hattie Evelyn.....	J. A. Cromwell.....	J. A. Cromwell....	66	16	Gloucester, Mass..	June 28...	Cascumpec, P.E.I.	In for shelter. Caught 100 brls. mackerel.
Encola C.....	R. Cunningham.....	R. Cunningham....	62	14	do	do 28...	do	In for shelter. Caught 40 brls. mackerel.
Cecil H. Low.....	B. Low.....	A. McKenzie.....	75	16	do	July 4...	Souris, P.E.I.	Just from home. No fish Lost seine boat.
Henron Wood.....	G. Norwood & Sons.	H. McEachern.....	84	16	do	do 4...	do	Just from home. In for shelter.
A. H. Harding.....	A. C. Adams.....	A. C. Adams.....	61	16	do	do 4...	do	do
Edward Rich.....	R. W. Freeman.....	Jno. Newell.....	74	16	Wellfield, Mass....	do 6...	Malpègue, P.E.I.	do
R. S. Newcomb.....	A. E. Linnel.....	A. E. Linnel.....	66	14	Provincetown, P.E.I.	do 6...	do	do
Nellie N. Rowe.....	Ebin Lewis.....	Ebin Lewis.....	79	17	Gloucester, Mass..	do 6...	do	No fish yet
Orient.....	Chas. Lee.....	Chas. Lee.....	89	16	do	do 6...	do	do
Ellen W. Sawyer....	J. Sawyer.....	Jno. Orchard....	103	18	Portland, Me. ....	do 6...	do	Caught 70 brls. do
Wm. M. Gaffney....	J. Smith.....	Jas. W. Thomas...	70	16	Gloucester, Mass..	do 6...	do	do 50 brls. 2 weeks out.
May Flower.....	Cunningham & Thompson .....	J. McKinnon.....	108	16	do	do 6...	do	Just from home. No fish.
Morning Star.....	T. L. Mayo.....	P. P. Smith.....	76	15	Boston, Mass.....	do 6...	do	Caught 20 brls. mackerel.
Ossipee.....	Cunningham & Thompson .....	J. Johnston.....	69	14	Gloucester, Mass..	do 6...	do	Just from home. No fish.
Moro Castle.....	McKenzie & Harding	Edwin Joyce.....	83	17	do	do 6...	do	Caught 35 brls.
Martha C.....	L. Whalen.....	T. Cunningham....	75	16	do	do 6...	do	do 80 do
Molly Adams.....	S. Jacobs.....	S. Jacobs.....	117	17	do	do 6...	do	No fish. Only arrived.
Andrew Burnham....	Debotts & Dagget...	N. F. Blake.....	84	17	Boston, Mass.....	do 7...	Cascumpec, P.E.I.	Caught 250 brls. 3 weeks out.
Fannie Belle.....	W. B. Coombs .....	F. Hall.....	82	17	Gloucester, Mass .	do 7...	do	Caught 120 brls. do 30 do
H. G. French.....	J. W. Campbell.....	J. W. Campbell....	95	16	do	do 7...	do	Caught 85 brls. off North Cape.
C. H. Kelly.....	S. N. Mayo.....	C Sprague.....	65	15	Boston, Mass.....	do 7...	do	2 days out. Caught 12 brls.
Waterfall.....	J. W. Sawyer.....	Albert Long.....	70	16	Portland, Me.....	do 7...	do	No fish yet.
Leona.....	W. G. Poole.....	W. G. Poole.....	95	16	Gloucester, Mass..	do 7...	do	3 weeks out. Caught 300 brls.
G. P. Whitman.....	B. Williams.....	B. Williams.....	89	16	do	do 7...	do	Caught 275 brls. off North Cape.
Julia Ella.....	Burns & Co.....	J. Burns.....	49	14	Friendship, Me....	do 7...	do	2 days out. Caught nothing.
Martha Brady.....	S. Smith.....	J. F. Vautier.....	72	17	Gloucester, Mass..	do 7...	do	Caught off North Cape 140 brls.
J. S. McQuinn.....	J. S. McQuinn.....	Chas. Martin .....	77	16	do	do 7...	do	2 weeks out. Caught 20 do

S. R. Crane.....	J. McDonald.....	O. Whitman.....	74	17	do	.....	do	7...	do	.....	4	do	do	50 do
Howard Helbrook....	Oaks & Foster.....	Chas Keene .....	90	16	do	.....	do	7...	do	.....	2	do	do	20 do
Edward E. Webster.	S. Jacobs.....	S. Hudder.....	91	16	do	.....	do	7...	do	.....	1	do	do	30 do
Eliza Boyton .....	W. Parsons.....	G. Martin.....	84	16	do	.....	do	7...	do	.....	3	do	do	300 do
Pioneer.....	L. Whalen .....	J. F. Oriclett .....	62	15	do	.....	do	7...	do	.....	Just arrived.	No fish.		
A. R. Orittenden....	Isaac Steele.....	E. S. Graham.....	81	16	do	.....	do	7...	do	.....	Caught off North Cape,	70 do		
Eliza A. Thompson.	C. D. Thompson .....	E. S. Bibber.....	88	17	Portland, Me.....	.....	do	7...	do	.....	2 days out.	Caught	12 do	
Centennial .....	D. C. Babson.....	Arthur McRae.....	110	17	Gloucester, Mass...	.....	do	7...	do	.....	2 weeks out	do	17 do	
Aberdeen.....	F. B. Thomas.....	F. B. Thomas.....	65	14	do	.....	do	27...	Souris, P.E.I.	.....	Just from home.	No fish.		
C. A. Sandford .....	J. P. Edwards.....	A. K. Taylor.....	81	16	Dennis, Mass.....	.....	Aug.	10...	Off Portage	.....				
									Island, N.B.	.....				
A. C. Fox.....	F. Smith.....	S. S. Lewis.....	59	16	North Haven, Me...	.....	do	10...	do	.....	2 weeks out.	Caught 140 brls.		
Chas. Haskell .....	D. Thurston.....	D. Thurston.....	62	14	do	.....	do	10...	do	.....	1	do	do	20 do
W. H. Wellington....	D. Nickerson.....	D. Nickerson.....	81	15	Gloucester, Mass...	.....	do	10...	do	.....	1	do	do	40 do
H. W. Longfellow....	J. F. Wonson & Co.	Wm. King.....	77	16	do	.....	do	10...	do	.....	Just from home.	No fish.		
Phebe & Emma Small	H. P. Stone.....	H. P. Stone.....	66	15	North Haven, Me...	.....	do	10...	do	.....	2 weeks out.	Caught 200 do		
F. A. Rackliff.....	A. Rackliff.....	A. Rackliff.....	99	17	Gloucester, Mass...	.....	do	10...	do	.....	2	do	do	15 do
Millie Washburn ....	Rich .....	J. Goncalos .....	70	16	Provinceto'n, Mass	.....	do	10...	do	.....	10 days out.	do	80 do	
Cora Louise.....	S. Nickerson.....	O. Harris .....	74	15	Booth Bay, Me .....	.....	do	10...	do	.....	No fish yet.			
Maud S.....	F. H. Smith.....	F. Thomas .....	75	17	North Haven, Me...	.....	do	10...	do	.....	1 week out.	do	65 do	
M. D. Robbins.....	J. Robbins.....	J. Robbins.....	86	17	Portland, Me.....	.....	do	10...	do	.....	1	do	do	nothing.
A. C. Jordan.....	Rowe & Jordan.....	J. Warren.....	82	17	Gloucester, Mass...	.....	do	10...	do	.....	2	do	do	30 brls.
S. B. Knight.....	W. Maddocks.....	Mark Rand.....	76	17	Southport, Me.....	.....	do	10...	do	.....	1	do	do	70 do
A. H. Knight.....	J. O. Poole.....	W. E. Pinkham....	87	17	Booth Bay, Me.....	.....	do	11...	do	.....	2	do	do	
Wildfire .....	Geo. Steel .....	P. McFarlane.....	103	17	Gloucester, Mass...	.....	do	11...	do	.....	Caught 300 brls.			
Nellie M. Snow.....	J. S. Young.....	A. E. Snow.....	61	16	Wellfleet, Mass .....	.....	do	16...	Cascumpec,	.....	2 weeks out.	do	160 do	
									P.E.I.	.....				
Lizzie Williams.....	A. H. Harding.....	A. H. Harding ....	59	14	do	.....	do	17...	West Cape,	.....	3	do	do	110 do
									P.E.I.	.....	10 days out.	do	60 do	
Frank Butler .....	G. M. Long.....	Jacob Rich.....	70	16	New London, Conn	.....	do	17...	do	.....	3 weeks out.	do	140 do	
Belle A. Naus.....	L. B. Naus.....	L. B. Naus.....	88	16	Gloucester, Mass...	.....	do	17...	do	.....	10 days out.	do	75 do	
Alice.....	J. B. Rich .....	J. B. Rich .....	84	16	Provinceto'n, Mass	.....	do	17...	do	.....	3 weeks out.	do	78 do	
G. M. Hopkins.....	A. W. Rich.....	S. W. Rich.....	69	15	do	.....	do	17...	do	.....	2	do	do	50 do
Oresa.....	A. Leighton.....	A. Leighton.....	82	16	Gloucester, Mass...	.....	do	18...	do	.....	2	do	do	170 do
Meantonmah .....	Chas. Staples .....	Chas. Staples.....	73	16	Swan's Island, Me.	.....	do	18...	do	.....	2	do	do	270 do
Lizzie W. Hannum....	Jesse Lewis.....	Jesse Lewis.....	69	16	Gloucester, Mass...	.....	do	18...	do	.....	1 week out.	No fish.		
Sarah H. Prior.....	P. H. Prior.....	F. McLaughlin. ....	97	16	Boston, Mass.....	.....	do	18...	do	.....				
J. E. Garland .....	Cunningham & Thompson.....	C. T. Keene .....	76	16	Gloucester, Mass...	.....	do	18...	do	.....	do	do		
Gertie May.....	C. A. Guptil.. ..	E. Doughty.....	97	14	Portland, Me.....	.....	do	18...	do	.....	3 weeks out.	Caught 150 brls.		
Grover Cleveland....	Debuts & Dagget...	J. E. Conary.....	87	16	Boston, Mass.....	.....	do	18...	do	.....	2	do	do	10 do
J. Swanton.....	C. D. Thomas.....	G. W. Griffin .....	60	14	Portland, Me.....	.....	do	18...	do	.....	2	do	do	95 do
John G. Whittier....	Rowe & Jordan.....	W. Thurston .....	99	17	Gloucester, Mass...	.....	do	18...	do	.....	3	do	do	270 do
F. H. Smith.....	F. H. Smith .....	J. L. Crockett .....	70	16	North Haven, Me..	.....	do	18...	do	.....	4	do	do	215 do
Kate Florence .....	T. B. Baker.....	C. C. Killer .....	92	16	Dennis, Mass.....	.....	do	21...	Tignish, P.E.I.	.....	Just from home.	No fish.		
Hattie Maud .....	Lewis, Chase & Co.	W. A. Rice.....	86	17	Portland, Me.....	.....	do	21...	do	.....	1 week out.	Caught 20 do		
Maggie & Lilly.....	J. Pew & Sons.....	John Gery. ....	77	16	Gloucester, Mass...	.....	do	24...	Cascumpec,	.....	1	do	do	47 do
									P.E.I.	.....				
Fannie S. Orne.....	F. Orne.....	A. L. Kimball .....	81	17	Southport, Me.....	.....	do	24...	do	.....				

SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Schooner "CRITIC," Wm. McLAREN, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Phil. Sheridan .....	B. Lowe.....	John Mohr.....	93	16	Gloucester, Mass...	Aug. 24...	Cascumpec, P.E.I...	2 weeks out. Caught 60 brls.
Belle Franklin.....	J. Wonson, & Co....	H. D. Kendrick....	75	16	do	do	Off Tignish, P.E.I...	3 do do 150 do
Gertie Evelyn.....	A. Leighton.....	D. McIntyre.....	81	16	do	do	do	2 do do 110 do
Mary A. Clark.....	Geo. Clark.....	H. F. Brown.....	79	16	do	do	Cascumpec, P.E.I...	3 do do 160 do
Fleetwing.....	B. Montgomery.....	W. G. Keefe.....	56	14	do	do	do	6 do do 335 do
J. S. Glover .....	U. Maxwell.....	F. W. Kent. ....	53	14	Portland, Me.....	Sept. 1...	do	4 do do 70 do
F. A. Smith .....	J. Friend.....	R. Warren.....	73	17	Gloucester, Mass...	do 1...	do	4 do do 273 do
S. F. Baird .....	J. G. Tarr & Bros...	J. A. Verbert .....	74	16	do	do	do	... Just from home. No fish.
J. W. Bray .....	F. G. Wonson .....	G. E. McLean .....	79	16	do	do	do	... In for shelter.
A. R. Terry .....	R. D. Terry.....	R. D. Terry .....	65	15	do	do	do	3 weeks out. Caught 56 brls.
Electric Flash.....	A. Smith .....	A. Smith .....	78	14	North Haven, Me...	do 1...	do	No fish.
Nil Desperandum...	Debutts & Dagget...	S. Bivere.....	75	13	Wellfleet, Mass....	do 1...	do	4 weeks out. Caught 129 brls.
Mattie Winship.....	J. S. Ayer .....	J. Ternen .....	73	16	Gloucester, Mass...	do 1...	do	do 20 do
Annie Sargent.....	L. Whitten.....	Wm. Fisher .....	63	15	Portland, Me.....	do 1...	do	do 97 do
Nellie Davis.....	A. Melanson.....	A. Melanson.....	89	16	Gloucester, Mass...	do 2...	Off Tignish, P.E.I...	5 do do 165 do
John S. Preston.....	Geo. Clark .....	Wm. Harty .....	88	16	do	do	do	No fish.
Abby. M. Derrig....	W. M. Smith .....	Emery Gott.....	96	13	Portland, Me.....	do 2...	do	Caught 200 do
Newell B. Hawes....	T. Kennedy .....	T. Kennedy .....	84	16	Wellfleet, Mass....	do 2...	do	do 130 do
Cynosure .....	S. Nixon & Sons....	L. G. Rush .....	69	17	Booth Bay, Me .....	do 2...	do	do 60 do
Lizzie M. Center....	J. Smith .....	J. Smith .....	77	17	Gloucester, Mass...	do 2...	do	do 400 do
Lettie Hopkins .....	E. J. Hopkins.....	E. J. Hopkins.....	46	13	Vinal Haven, Mass...	do 5...	Malpeque, P.E.I ..	3 do do 20 do
W. J. Crosby.....	F. Carroll .....	F. Carroll .....	107	17	Gloucester, Mass...	do 5...	do	do 180 do
Col. J. French .....	J. Chisholm .....	Wm. Harris.....	79	16	do	do 5...	do	No fish.
Stowell Sherman....	S. T. Hatch.....	S. T. Hatch .....	87	16	Provinceto'n, Mass	do 5...	do	Caught 190 do
Hattie Linnel.....	E. S. Linnel.....	E. S. Linnel.....	80	16	do	do 5...	do	do 140 do
John Plummer.....	J. Tickett.....	J. L. Clark.....	95	16	Portland, Me.....	do 5...	do	d 140 do
F. R. Walker.....	T. A. Langsford....	J. McDonald.....	67	15	Gloucester, Mass...	do 5...	do	Just from home. No fish.

Ralph Hodgson.....	T. Hodgson.....	85	17	do	5...	do	... 5 weeks out.	Caught 150	do
A. H. Pevere.....	A. H. Pevere.....	93	17	Wellfleet, Mass.....	5...	do	5 do	do	do
Margaret Smith.....	A. Smith.....	109	18	Portland, Me.....	5...	do	5 do	do	do
Addison Centre.....	Margeson & Co.....	71	15	Gloucester, Mass.....	5...	do	3 do	No fish.	do
Paul & Essie.....	J. W. Smith.....	63	15	Marblehead, Mass.	5...	do	7 do	Caught 25	do
Vesta.....	S. Smith & Co.....	75	16	Gloucester, Mass.....	5...	do	Just from home.	No fish.	do
Reulette.....	Wm. Wells.....	79	16	Philadelphia.....	5...	do	2 weeks out.	No fish.	do
Wm. H. Foye.....	S. Smith.....	66	15	Gloucester, Mass.....	5...	do	2 do	Caught 200	do
Laura Belle.....	J. D. Speaker.....	77	16	New York.....	5...	do	6 do	do	do
G. W. Brown.....	Chas. Dyer.....	64	14	Portland, Me.....	5...	do	3 do	do	do
H. L. Newman.....	D. Allen.....	93	16	Gloucester, Mass.....	5...	do	6 do	do	do
Carrie Crosby.....	J. Eaton.....	55	16	Wellfleet, Mass.....	5...	do	Just from home.	No fish.	do
Porter Roberts.....	A. Leighton.....	72	15	Gloucester, Mass.....	5...	do	4 weeks out.	Caught 365	do
Bartie Pierce.....	J. P. Aitkin.....	90	16	do	5...	do	2 do	do	do
Mary Fernold.....	Z. Tarr.....	76	16	do	5...	do	Just from home.	No fish.	do
Sarah Ayer.....	Z. Tarr.....	67	15	do	5...	do	3 weeks out	do	do
Jennie Severns.....	J. Tupper.....	106	17	do	6...	do	2 do	do	do
Ethel & Addie.....	Lewis, Chase & Co.	86	18	Portland, Me.....	6...	do	7 do	Caught 170	do
Isaac Chapman.....	O. Babson.....	80	16	Gloucester, Mass.....	6...	do	3 do	do	do
E. L. Conley.....	Brown & Conley.....	56	13	do	6...	do	Just from home.	No fish.	do
Clara Cameron.....	J. Edwards.....	99	17	Dennis, Mass.....	6...	do	2 weeks out.	Caught 215	do
Henry Dennis.....	G. McLean.....	91	16	Gloucester, Mass.....	6...	do	6 do	do	do
Wm. Daisley.....	J. Gorman.....	93	16	do	6...	do	2 do	do	do
Herald of the Morn'g	L. McLean.....	68	16	do	6...	do	Just from home.	No fish.	do
Carrie Parsons.....	McKenzie & Harding	80	16	Wellfleet, Mass.....	6...	do	6 weeks out.	Caught 184	do
Chas. Atwood.....	M. Burrows.....	69	16	Swan's Island, Me.	6...	do	3 do	do	do
Henry Friend.....	W. Staples.....	64	16	Gloucester, Mass.....	6...	do	3 do	do	do
Ethel Maud.....	Geo. Martin.....	77	16	do	6...	do	6 do	do	do
Chas. Warren.....	A. Rackliff.....	103	16	do	6...	do	5 do	do	do
Helen Crosby.....	M. Stinson.....	63	15	Swan's Island, Me.	6...	do	4 do	do	do
Rush Light.....	J. W. Campbell.....	63	14	Gloucester, Mass.....	6...	do	5 do	do	do
J. W. Campbell.....	Ben. Lowe.....	79	15	do	8...	do	5 do	do	do
Canopus.....	S. Smith & Co.....	68	16	Gloucester, Mass.....	19...	do	5 do	do	do
Herman Batson.....	Chas. Lawson.....	95	16	do	19...	do	5 do	do	do
Laura Nelson.....	Poole & Garden.....	85	16	do	19...	do	Just from home.	No fish.	do
Fannie Freeman.....	G. Clark & Co.....	90	16	do	19...	do	4 weeks out.	Caught 100 brls.	do
George Pierce.....	Lewis, Chase & Co.	59	16	Portland, Me.....	19...	do	Just from home.	No fish.	do
							6 weeks out.	Caught 91 brls.	do

WM. McLAREN,  
Commander of the Government Fisheries Protection Schooner "CRITIC."

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "F. E. CONROD," M. SMELTZER, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men		Date.	Place.	
Moro Castle .....	McKenzie & Harding	Edward Joyce....	83	16	Gloucester, Mass...	June 22...	Souris, P.E.I.	Put in here for shelter, blowing hard from North East. Ordered vessel away after wind ceases. Left next a.m. at 4. Reports fish scarce.
Howard Holbrook...	Oakes & Foster.....	Chas. A. Keene....	93	16	do	do	Port Hawkesbury, N.S.	Put in for water. Ordered her away after supplying. Left 8 a.m. 27th. Just from home. No fish.
Gertie May .....	Chas. A. Guptil.....	Isaacher Doughty.	96	14	Portland, Me.....	do	Port Mulgrave N.S.	Put in for water. Ordered away after supplying. Left a.m. next day. Just from home. No fish.
May Flower.....	Cunningham & Thompson.....	J. A. McKinnon....	108	16	Gloucester, Mass...	do	do	Put in for water. Ordered her away after supplying. Left a.m. next day. Just from home.
Col. J. H. French ...	Jno. Chisholm.....	Wm. Harris.....	79	16	do	July 7...	Souris, P.E.I.	No fish.
Pendragon.....	A. Mansfield.....	Jno. Nason.....	68	14	do	do	do	do
Golden Hind.....	Rowe & Jordan.....	R. Cameron .....	82	16	do	do	Miscou Light bearing West, North West 4 miles.	397 brls. mackerel. Cautioned him not to enter the Bay des Chaleurs.
Jennie Seavens.....	Jas. J. Tupper .....	J. J. Tupper.....	107	16	do	do	Miscou Light bearing West, North West 5 miles.	225 brls. mackerel. Cautioned him not to enter the Bay des Chaleurs.
Alice C. Jorden.....	Rowe & Jorden.....	J. Warren.....	82	16	do	do	Miscou Light bearing West, North West 4 miles.	397 brls. mackerel. Cautioned him not to enter the Bay des Chaleurs.
Philip P. Frye.....	Sidney Smith. ...	S. Smith.....	80	17	do	do	Miscou Light bearing West, 3 miles.	300 brls. mackerel. Cautioned him not to enter the Bay des Chaleurs.

S. S. Novelty. ....	Brown & Co. ....	Geo. Joyce. ....	197	35	Portland, Me. ....	do	26...	Miscou Light bearing West, 3 miles.	Cautioned him not to enter the Bay of Chaleurs. Just from home. 2nd trip.
Commodore Foote....	Capt. Gray .....	Capt. Gray .....	61	14	Gloucester, Mass...	Aug. 10...	Midway between Port Daniel and Miscou Isd.	Ordered him out of the Bay of Chaleurs which order immediately complied with. Had 150 brls. mackerel.	
Ossipee.....	.....	John Johnson.....	68	15	do	Sept. 18...	3½ miles North of East Point Light.	6 weeks in the Bay. 250 brls. mackerel. In act of fishing. Warned him not to fish any nearer inshore.	
Hattie Evelyn.....	J. A. Cromwell.....	J. A. Cromwell....	66	14	do	do	Souris, P.E.I..	Put in for shelter. Ordered him out when wind and weather permits. 5 weeks in Bay. 100 brls. mackerel.	
Uncle Joe.....	W. T. Maddocks .....	Edwin J. Price....	66	15	Booth Bay, Me. ....	do	do	Put in for shelter. Ordered him out when wind and weather permits. 6 weeks in Bay. 166 brls. mackerel.	
Emma W. Brown.....	John McFarlane .....	J. McFarlane.....	74	16	Gloucester, Mass...	do	do	Put in for shelter. Ordered him out when wind and weather permits. 6 weeks in Bay. 44 brls. mackerel.	
Golden Hind.....	Rowe & Jordan.....	Reuben Cameron..	72	15	do	do	do	Put in for shelter. Ordered him out when wind and weather permits. 7 weeks in Bay. 270 brls. mackerel.	
May Flower.....	Cunningham & Thompson.....	John A. McKinnon	108	16	do	do	do	Put in for shelter. Ordered him out when wind and weather permits. 7 weeks in Bay. 210 brls. mackerel.	
W. D. Daisley .....	J. E. Gorman .....	J. E. Gorman.....	93	16	do	do	do	Put in for shelter. Ordered him out when wind and weather permits. 4 weeks in Bay. 220 brls. mackerel.	
Gracie H. Benson....	B. B. Benson.....	B. B. Benson.....	88	14	Provinceto'n, Mass	do	do	Put in for shelter. Ordered him out when wind and weather permits. 6 weeks in Bay. 75 brls. mackerel.	
Mary Fernald... ..	Zebulon Tarr.....	Simpson.....	76	14	Gloucester, Mass...	do	do	Put in here for shelter. Ordered him out. Left this a.m. 4 weeks in the Bay. 3 brls. mackerel.	
Isaac A. Chapman...	Batson.....	B. F. Sprague .....	80	16	do	do	Port Hawkesbury, N.S.	Put in for shelter. Ordered him out when wind and weather permits. Left next a.m. 150 brls. mackerel.	
Margaret Smith.....	Smith & Co.....	L. W. Jewett .....	109	18	Portland, Me. ....	do	do	Put in for shelter. Ordered him out when wind and weather permits. Left next a.m. 400 brls. mackerel. 2 months fishing	

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Schooner "F. E. CONROD," M. SMELIZER, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Martha A. Bradley...	Silvanus Smith.....	J. F. Banitel.....	73	16	Gloucester, Mass...	Sept. 25...	Port Hawkesbury, N.S.	Put in for shelter. Ordered him out when wind and weather permits. Left next a.m. 150 brls. mackerel. 3 weeks fishing.
Fannie A. Spurling.	M. Smith.....	C. S. Parris.....	81	16	Portland, Me.....	do 25...	do	Put in for shelter. And to go on the Marine Railway for repairs. 275 brls. mackerel. 6 weeks fishing.
Vesta.....	S. Smith & Co .....	J. F. Staples .....	75	16	Gloucester, Mass...	do 25...	do	Put in for shelter. Ordered him out when wind and weather permits. Left next a.m. 30 brls. mackerel. 3 weeks fishing.
W. D. Daisley .....	J. E. Gorman.....	J. E. Gorman.....	93	16	do	Oct. 4...	Souris, P.E.I.	In for shelter. Was accompanied by John Bourinot, Collector of Customs from Port Hawkesbury, in boarding who seized vessel for violation of Customs Laws. said vessel was fined \$400. which was paid. Vessel went to sea next day.
Samuel B. Crane....	Owen Whittier.....	O. Whittier.....	74	17	Gloucester, Mass...	do 4...	do	In for shelter. Will proceed for home when weather permits. 460 brls. mackerel
Edith S. Whalen.....	M. Whalen & Son....	P. McDonald .....	78	17	do	do 4...	do	In for shelter. Ordered to leave when weather permits. Left same day. 238 brls. mackerel.
Alice .....	S. Chase .....	S. Chase .....	85	14	Provincetown, Mass	do 5...	do	In for small repairs. Ordered to leave when completed. Left same day, p.m.. 260 brls. mackerel. 8 weeks in Bay.

Carrie E. Parsons....	McKenzie, Harding & Co ..... ..	A. T. Greenlow....	80	16	Gloucester, Mass...	do	7...	Port Hood, N.S.	In for water. Ordered to leave when supplied. Left next a.m. 8 brls. mackerel. 8 weeks from home.
Mary H. Thomas....	Henry B. Thomas....	H. B. Thomas.....	93	17	do	do	9...	Port Mulgrave N.S.	In for water. Ordered to leave when supplied. Left same day. 100 brls. mackerel. 7 weeks from home.
John S. Presson.....	Geo. Clark & Co.....	William McHarty.	88	16	do	do	9...	do	In for water. Ordered to leave when supplied. Left same day. 25 brls. mackerel. 7 weeks in Bay.
Henry N. Woods.....	Geo. Norwood & Sons	H. McAckern.....	84	16	do	do	10...	Louisburg, N.S.	In for shelter during the night. Left next morning. 340 brls. mackerel. 9 weeks from home.
Eleazer Boynton.....	Wm. Parsons.....	Geo. B. Marten....	84	16	do	do	10...	do	In for shelter during the night. Left next morning. No fish. Just from home.
Carrie Parsons .....	McKenzie, Harding & Co..... ..	A. T. Greenlow....	80	16	do	do	12...	North Sydney, C.B.	In for shelter. Ordered him out Left same day. Reports one of his men deserted. 40 brls. fish. 8 weeks fishing.
Belle A. Naas.....	L. B. Naas.....	L. B. Naas... ..	88	16	do	do	13...	do	In for shelter. Left next morning at daylight. 72 brls. mackerel. 7 weeks from home.
Mollie Adams.....	Imon Jacobs.....	S. Jacobs.....	117	17	do	do	13...	do	In for shelter. Left next morning early. 100 brls. mackerel. 5 weeks from home.
Edith Rowe .....	Rowe & Jordan.....	J. L. Swim.....	80	16	do	do	13...	do	In for shelter. Left next morning. 156 brls. mackerel. 5 weeks from home.
Fannie W. Freeman.	Geo. Clark & Co.....	M. Whalen.....	90	16	do	do	13...	do	In for shelter. Left early next morning. No fish. 4 weeks out.
Ambrose H. Knight.	James E. Poole.....	H. G. Spofford.....	87	17	Booth Bay, Me.....	do	13...	do	In for shelter. Left early next morning. No fish. 1 week out.
Addison Centre.....	Margeson, Blatchford & Co..... ..	Sol. A. Rowe.....	75	15	Gloucester, Mass...	do	13...	do	In for shelter. Left early next morning. 120 brls. mackerel. 8 weeks out.
F. R. Walker.....	T. A. Langsford.....	J. McDonald.....	67	15	do	do	13...	do	In for shelter. Left early next morning. 200 brls. mackerel. 6 weeks out.
Orient.....	Capt. Lee.....	Capt Lee .....	89	16	do	do	13...	do	In for shelter with lost of foremast head. Left after repairing. 140 brls. mackerel.
Spencer F. Baird.....	James H. Tarr.....	John Viber.....	78	16	do	do	13...	do	In for shelter. Left early next a.m. 10 brls. mackerel. 8 weeks out.
Gertie Evelyn .....	Andrew Leighton....	D. McIntyre.....	81	15	do	do	13...	do	In for shelter. Left early next a.m. 200 brls. mackerel. 8 weeks

SCHEDULE of Fishing Vessels boarded during the Season of 1886—*Continued.*

COPY of Boarding Book of Schooner "F. E. CONROD," M. SMELTZER, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARK.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
J. E. Garland. ....	Cunningham & Thompson ..	O. T. Keene.....	76	18	Gloucester, Mass...	Oct. 13...	North Sydney.	In for shelter. Left early next morning. 150 brls. mackerel. 8 weeks out.
Sarah H. Prior....	P. H. Prior.....	T. McLaughlin.....	97	16	Boston, Mass.....	do 13...	do ...	In for shelter. Left early next a.m. 200 brls. mackerel. 10 weeks out.

M. SMELTZER,  
*Commander of the Government Fisheries Protection Schooner "F. E. CONROD."*

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Schooner "TERROR," THOMAS QUIGLEY, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
James Ellor .....	Wanson .....	Melanson.....	84	17	Gloucester, Mass...	May 11...	St. Mary's Bay	Seiner. To see his parents.
John Wanson .....	Tarr .....	Doty .....	55	11	do .....	do 17...	Shelburne, N.S	Captain ill. Hand liner.
Northern Star .....	J. O. Proctor .....	Peterson .....	53	11	do .....	do 19...	do .....	Trawler. To reave peak balyards
J. G. Craig.....	Cushing & McKinnie .....	Webber .....	73	14	Portland, Me.....	do 22...	Liverpool, N.S	Captain's son ill.
M. C. Gloster.....	Leonard & Whalen...	Cunningham.....	58	12	Gloucester, Mass...	do 23...	do .....	Trawler.
Sarah E. Lee .....	Pool & Gardner .....	Allan .....	75	14	do .....	do 28...	do .....	Seiner. For water.
John Wanson .....	Doty Wanson .....	Wanson .....	55	10	do .....	June 16...	Shelburne, N.S	Ordered her to sea and she sailed.
Northern Star .....	J. O. Proctor .....	F. J. Peterson .....	53	8	do .....	do 19...	Sand P't, N.S	do
J. G. Craig .....	Cushing & McKinnie .....	Webber .....	73	10	Portland, Me. ....	do 22...	Liverpool, N.S	Ordered to sea.
Mary C. Gloster.....	Cunningham .....	L. Whalen.....	56	12	Gloucester, Mass...	do 23...	do .....	Trawler.
Sarah E. Lee .....	Pool & Gardner .....	Thompson.....	74	14	do .....	do 28...	do .....	Seiner. Ordered to sea.
City Point.....	Williams & Others...	Keene.....	85	12	Portland, Me. ....	July 1...	Sand P't, N.S	Trawler.
Geo. W. Cushing...	C. B. Jewett & H. Williams .....	C. B. Jewett.....	73	12	do .....	do 1...	McNutt's Isl'd, N.S.....	Ordered to sea. Sailed at 4 a.m. next morning.
City Point.....	Williams & Others...	Keene .....	85	14	do .....	do 2...	Shelburne, N.S	Trawler. Deck to caulk.
Jno. Wanson .....	Tarr .....	Doty .....	55	10	Gloucester, Mass...	do 3...	do .....	Called for captain, left here ill.
Alice H. Snow .....	Russell, Gibbs & Co.	Russell .....	53	9	do .....	do 3...	do .....	Hand liner.
C. B. Herrington ...	Chas. H. Day.....	Fettes .....	21	5	Portland, Me.....	do 3...	Cape Roseway	do
Geo. W. Orshing ...	H. Williams & Others	C. B. Jewett.....	73	12	do .....	do 4...	Shelburne, N.S	Trawler for bait.
C. B. Herrington.....	do .....	Frellick .....	37	4	do .....	do 4...	do .....	Hand liner. Ice and bait.
Thos. B. Rackett.....	Capt. Rackett .....	Rackett .....	35	6	Greenport, L.I.....	do 7...	Sand P't, N.S	Buying lobsters.
T. B. Rackett.....	Rackett .....	Willard .....	40	6	do .....	do 7...	Negro Harbor.	Lobster trader.
J. R. Atwood.....	J. R. Russell.....	Newell .....	43	4	Boston, Mass.....	do 15...	Shelburne, N.S	do
C. B. Rackett.....	Do .....	Willard .....	40	6	Greenport, L.I.....	do 21...	do .....	do
Eliza Crowell .....	D. Allan .....	Jno. Chase .....	67	12	Gloucester, Mass...	do 27...	do .....	Seiner. Head wind.
Craig Golanzen .....	Tarr.....	Golanzen .....	70	13	do .....	do 3...	do .....	Hand liner. For supplies.
Rattler.....	Andrew Layton .....	Cunningham .....	94	17	do .....	Aug. do	do .....	Seiner. Head wind.
J. G. Craig.....	Cushing & McKinnie .....	Webber .....	75	14	Portland, Me.....	do 4...	do .....	Trawler. For repairs, and his son.
Freddie Walton .....	Hagerty .....	Allan .....	80	13	Provinceto'n, Mass	do 5...	Liverpool, N.S	Seiner. Head wind.
Rowen Nicholson ...	Kendricks & Bloss...	N. E. Eldridge.....	53	14	Chatham, Mass. ...	do 6...	do .....	Hand liner. Head wind.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Schooner "TERROR," THOMAS QUIGLEY, Commander.

NAME OF VESSELS AND OWNER.				TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE LOADED.		REMARKS.
Vessels.	Owner.	Master.		Tons.	Men.		Date.	Place.	
Legal Tender.....	Tarr .....	Oscar Devine .....		58	12	Gloucester, Mass..	Aug. 7...	Liverpool, N.S	Trawler. Head wind.
Shiloah .....	Jno. Pew & Son .....	Jones .....		81	14	do .....	do 9...	do	Seiner. For water.
Julia & Ellen .....	Burns .....	J. E. Burnes .....		43	15	Friendship, Me.....	do 10...	do	Hand liner. Head wind.
Elizabeth Foster.....	Desublin .....	W. H. Cotton .....		61	11	Gloucester, Mass...	Sept. 3...	Shelburne, N.S	Trawler. Repairs.
Florence Mordick ...	Petingill & Cuminer.	R. S. Hopkins .....		63	11	do .....	do 4...	do	Hand liner. Head wind.
Hebert M. Rogers....	Row & Gordon .....	Patrick Veal.....		73	14	do .....	do 6...	do	In from Greenland. For water.
Everett Steele.....	Benj. Spinney .....	Charles H. Forbes.		68	12	do .....	do 11...	do	Trawler. In for water and pumps out of order.
Lottie S. Morton.....	J. Wanson.....	Eben McAuley.....		64	12	do .....	do 13...	do	In for water, harbor. Trawler.
Abbie A. Snow .....	Geo. Steel & Russell Gill.....	J. Hopkins .....		37	10	do .....	do 13...	do	do
A. H. Harding.....	Geo. Norwood, Sons and others.....	A. C. Adams .....		61	16	do .....	do 16...	do	From North Bay. Seiner.
Abbie A. Snow .....	Geo. Steel & Russell Gill .....								
Geo. A. Hovey .....	G. A. Hovey & others	J. Hopkins .....		37	16	do .....	do 16...	do	In for shelter. Trawler.
Annie S. Orne.....	Orne .....	James Rossiter. ...		60	11	do .....	do 17...	do	do
C. Ellsworth .....	James Ellsworth and others .....	A. L. Kimball .....		80	16	Provincetown, Mass	do 17...	do	Seiner.
Nellie B. Hawes.....	Hendricks.....	J. Ellsworth.....		92	16	Eastport, Me.....	do 17...	do	do
Mattie Winship .....	J. G. Ayer.....	J. E. Hendricks....		84	16	Wellfleet, Mass....	do 18...	do	do
S. E. Ayer.....	Tarr .....	John Irwin.....		73	16	Gloucester, Mass...	do 19...	Negro H'r, N.S	do
Mystery .....	John Wanson & Co.	S. Nickerson .....		67	15	do .....	do 19...	do	do
Mary Storey.....	Stewart Bros.....	John Doga.....		123	18	do .....	do 22...	Shelburne, N.S	Seiner.
do .....	Stewart Bros.....	John Daniels .....		60	11	do .....	do 22...	Cape Negro....	Hand liner.
Sir Knight.....	Wm. T. Maddox .....	do .....		60	11	do .....	do 23...	do	In for shelter.
Lottie S. Morton.....	John Wanson & Co.	Mark Rannie.....		74	17	Southport, Me.....	do 23...	Shelburne, N.S	North Bay. Seiner.
do .....	do .....	Eben McAuley.....		64	12	Gloucester, Mass...	do 24...	d	Hand liner.
H. L. Merriman.....	Daniel Allan & Son...	do .....		64	12	do .....	do 24...	do	do
Etta Gatt .....	Sylvang Smith ...	A. W. Richards....		93	15	do .....	do 26...	do	Seiner.
		Alex. Bushen .....		57	10	do .....	do 26...	do	Trawler.



# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "GENERAL MIDDLETON," JAMES McLEAN, Commander.

Vessels.	NAME OF VESSELS AND OWNER.		TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
						Date.	Place.	
Gracie Ann.....	J. O. Grady... ..	Capt. Lewis .....	4	1	Eastport, Me.....	May 29...	Red Head Cove.	Lobster boat, bound for Eastport.
Sarah E. Hyde.....	J. Murphy.....	J. Murphy.....	34	4	Friendship, Me.....	June 18...	Wrayton's Isl'd	Lobster boat, bound for Boston.
Richard S. Newcomb	Capt. Lemiel.....	Capt. Lemiel.....	94	16	Provinceto'n, Mass	do 19...	Little River, Tuskets.	On shore at Little River, Tuskets.
Everett Steele.....	Benj. Spinney.....	C. H. Forbes.....	67	11	Gloucester, Mass...	do 30...	Pubnico.. .....	A seiner. No fish on board. Bound to Bay of Chaleurs. Came into this port to fill fresh water, for no other purpose. Asked permission to stop until morning which was granted, with orders to proceed to sea inside of 24 hours from time of arrival, which he promptly obeyed at 8 30 a.m. July 1st. Part of his crew belonging to Argyle, was bound to Grand Banks for codfish.
Zeypher.....	Judson Young.....	I. Pulk.....	10	2	Eastport, Me.....	July 9...	St. Andrews...	Came here to procure herrings for canning purposes. Had no papers or permit of any kind. Said he left his papers at home. He was ordered off and cautioned not to return in our waters without proper papers from the Customs House.
Nellie C.....	Wm. Martin .....	J. Cross.....	6	2	do .....	do 9...	do	Had no papers from the Customs House. Was here to procure herrings. Was ordered off to get papers to enable him to purchase fish.
Emma A.....	J. McVahon .....	J. McVahon .....	6	2	do .....	do 9...	do	Had no papers or permit to take fish. Was ordered off to get papers at Customs House.

Maud.....	Wm. Martin.....	E. Kay.....	7	2	do	do	do	9...	do	...	Had no papers. Was ordered off to get the necessary paper to trade.
Planet (Str.).....	Rosentine Bros.....	S. Parrott.....	15	4	New York.....	July	St. Andrews...	9...	St. Andrews...	...	Out on a trial trip, not after fish.
Boat.....	Blanchard.....	G. Balkan.....	3	1	Eastport, Me.....	do	do	9...	do	...	Had no permit to take fish. Was ordered to leave at once, to which order he obeyed at once.
Myra A.....	Stewart.....	Stewart.....	3	2	do	Aug.	Digdegnash....	3...	Digdegnash....	...	Had clearance from Custom Officer J. E. Dixon, Deer Island. They had no cargo on board.
Zeypher.....	J. D. Young.....	J. Pulk.....	10	2	do	do	Bliss Harbor...	3...	Bliss Harbor...	...	Had clearance from J. E. Dixon. With no cargo on board.
Cora.....	James Davis.....	J. Davis.....	3	1	do	do	do	3...	do	do	Had clearance from J. McKay, Maguadavic. With no cargo on board; good for one week.
Owl.....	.....	.....	3	1	do	do	do	3...	do	do	do
Bessie B.....	W. J. Hickey.....	W. J. Hickey.....	3	1	do	do	do	3...	do	do	Had clearance from J. E. Dixon.
Comet.....	J. O. Lenard.....	J. Lenard.....	3	1	do	do	do	4...	do	do	With no cargo on board.
Lizzie.....	S. Stewart.....	S. Stewart.....	3	1	do	do	do	4...	do	do	do
Laura.....	Mahiman.....	Mahiman..	4	1	Lubec, Me.....	do	Welchpool.....	4...	Welchpool.....	...	Had a permit from Coll. Farmer to buy a cargo of fish and return to the Custom House, and clear his cargo outward.
Boat.....	A. B. Sumner.....	J. Brown.....	3	2	do	do	Campobello...	6...	Campobello...	...	Caught taking herrings from the weir without leave. Was taken and held on board the "Middleton," until the owner came with license from W. H. Venning to fish that weir for one year; given from Overseer Brown at Campobello.
Sloop boat.....	— Hood.....	J. Gabeau.....	3	2	Eastport, Me.....	Aug.	Head Herbor...	9...	Head Herbor...	...	On being questioned claimed to be a Canadian vessel; but finding he was an American ordered him out, which he immediately obeyed.
W. E. Norris.....	.....	.....	40	4	do	do	East Quoddy..	9...	East Quoddy..	...	No master on board. Crew reported came there to purchase fish. Had a clearance for Eastport, granted by Deputy Collector Dixon, of Deer Island, but which was not lawfully granted.
Norma.....	Wm. B. Keene.....	Chas. Blatchford...	25	5	Boston, Mass.....	do	Westport.....	14...	Westport.....	...	Put in through stress of weather, which carried away fore top mast and split main sail. Was ordered to sea as soon as repairs were effected.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "GENERAL MIDDLETON," JAMES McLEAN, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Owl.....	John Randall.....	J. Randall.....	4	1	Esport, Me.....	Aug. 23...	Bliss Harbor, F.B.	Had a clearance issued by James McKay, Collector, St. George, on 21st August. The master reported that M. McKay said the clearance was good for 7 days, but which we consider is altogether unlawful.
Venus.....	James Leonard.....	J. Leonard.....	5	2	do	do 23...	St. Andrew's Bay.	Had a clearance issued by C. Gove, Collector, St. Andrews, 13th August.
K. of L.....	J. McCutchen.....	J. McCutchen.....	5	2	do	do 23...	Digdegush, N.B.	Possessed a clearance issued by J. Dixon, Collector. Deer Island, dated 9th August, but had no fish on board at the time of boarding.
Venice.....	Clarence Holt.....	C. Holt.....	5	2	do	do 23...	do	Had a clearance for the fish he intended to buy, issued by C. Gove, Collector, St. Andrews, 21th August.
Emma A.....	J. McMahon.....	Loring Cross.....	8	1	do	do 23...	Hog Island, N.B.	Had no permit or clearance and was ordered away, which he obeyed.
Wide Awake.....	Wm. Foley.....	Wm. Foley.....	10	1	do	do 23...	do	Had no permit or clearance and was ordered off, which he obeyed.
Maria Star.....	J. Martin.....	James Steward....	5	2	do	do 23...	Bliss Harbor, N.B.	Was ordered to leave immediately, but on promising to report to the Customs House without further delay, was allowed to remain for the time being. Cautioned as to the Customs regulations and penalties.

Annie May.....	M. O. Holmes & Co.	Philip Walton .....	11	2	do	.....	do	23...	do	...	Was allowed to remain on promising to go to Customs House without delay. Cautioned as to penalties for non-compliance.
Zephyr .....	G. Mitchell .....	W. Polk.....	8	2	do	.....	do	23...	do	...	Allowed to remain, but ordered to go to Customs House, which he complied with immediately.
Cora.....	J. D. Young.....	James Davis .....	3	1	do	.....	do	23...	do	...	Had a permit issued by J. Dixon, Deer Island, and marked "good for this trip only." Issued 4th August.
Fanny.....	Wm. Sherburne.....	Wm. Sherburne ...	5	1	do	.....	do	23...	Pea Island, N.B.	...	Had a clearance issued 12th August by J. Dixon, Collector, Deer Island, with the words "good for this trip only" attached.
Sea Foam.....	Elijah Greenlaw....	E. Greenlaw. ....	5	1	do	.....	do	23...	Hog Island, N.B.	...	Had no permit or clearance and was ordered away which he obeyed at sundown.
Ida.....	Jno. Greenlaw.....	D. M. Cullough....	5	1	do	.....	do	23...	St. Andrews Bay, N.B.	...	Had a clearance issued 17th August by C. Gove, Collector, St. Andrews, but had no fish on board.
Sloop boat (No name)	Chas. Smith.....	C. Smith.....	2	4	do	.....	Sept. 1...	East Quoddy, N.B.	...	...	Boarded whilst fishing, with fish and fishing gear on board, and towed to Welchpool, to await instructions from Ottawa.
Sloop boat (No name)	Alex. Tinker.....	A. Tinker.....	2	4	do	.....	do 1...	...	do	...	Boarded while attempting to escape from the fishing grounds with fish and fishing gear on board and towed to Welchpool there to await instructions from Ottawa.
Yellow Girl.....	S. Hood.....	J. Long.....	9	3	do	.....	Sept. 9...	Head Harbor, N.B.	...	...	Put in for water. Ordered off which he immediately complied with.
.....	.....	.....	.....	.....	.....	.....	do 9...	Eastern Wolf, N.B.	...	...	Found a purse seine drying on the beach and a Mr. Mathews who claimed to have it in his charge acknowledged to have used it, and a Mr. Mitchell of Campbell who assumes to own it acknowledged to not having entered it but we are informed on very good authority that the owner is Judson Young, sardine packer of Eastport and we seized it for violation of Customs Act and the Fishery Act as it is unlawful to use them.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "GENERAL MIDDLETON," JAMES McLEAN, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Katie M.....	C. Moore.....	C. Moore.....	8	2	Eastport, Maine....	do 17...	Beaver Harbor, N.B.	Put in for a harbor, on account of stormy weather, but ordered to sail when weather became favorable.
Sardine.....	M. Holmes.....	A. Cross.....	5	2	do do	do 18...	do do	Came to purchase fish. Warned as to Customs regulations and penalties for non-compliance.
Eagle.....	S. Wordsworth.....	O. Bowman.....	10	2	do do	do 18...	do do	Came to purchase fish. Warned as to Customs regulations and penalties for non-compliance.
Carrie W.....	S. Freeman.....	S. Freeman.....	8	2	do do	do 20...	Quoddy Bay, N.B.	This boat would hold about 5 hogsheads of herring, but the master had a clearance, but no fish, for 30 hogsheads of herring, the amount he expected to carry the present week to Eastport and J. McKay of St. George who issued it on 20th September, said it would be lawful until he carried that amount of fish.
Emma.....	A. Joy... ..	A. Joy.....	4	2	Lubec.....	do 21...	Head Harbor, N.B.	Loaded with fish and had a clearance issued by the Collector at Grand Manan on 20th September
Little Lucy (Str.)....	H. Hart.....	S. Mitchell.....	20	3	Robinstown .....	Sept. 24...	St. Andrews... N.B.	Laden with fish and had a clearance from the Collector at St. Andrews.
Lulu.....	E. Adams.....	E. Mathews .....	9	2	Eastport, Me.....	do 24...	Off Head Harbor, N.B.	Had a clearance for 25 hogsheads of fish (but had a full cargo of fish on board which consisted of 5 hogsheads) issued by J. Dixon, Collector of Deer Island, Ex-

L. E. Rich.....	J. Blanchard.....	T. Holmes.....	7	2	do	...	do	30...	Off St. And'ws N.B.	plained that Mr. Dixon told him his clearance was good until he had carried 25 hogsheads, then to go to him and he would grant a new one.
Annie May.....	M. C. Holmes.....	P. Watton.....	20	2	do	...	do	8...	Popologan, NB	Had herring and a clearance from Collector Gove, granted 30th September.
Gussie May.....	W. Dockerty....	W. Dockerty.....	8	2	do	...	do	9...	Off Bliss Har- bor, N.B.	Had no permit, and ordered to get under weigh, but on promising to report at Customs House was allowed to remain.
Annie May.....	M. C. Holmes.....	P. Watton.....	20	2	do	...	do	9...	do	Had on board 7 hogsheads of herring which was his full load, but had a clearance from James McKay, Collector of St. George for 16 hogsheads, given 4th October.
Laura B.....	Pike & Parker.....	H. Maulmain .....	8	2	do	...	do	11...	Bocabec, N.B.	Had no fish on board, but was warned against loading any without previously procuring a permit from the Collector.
Maggie May.....	J. Robertson.....	J. Robertson.....	12	2	do	...	do	14...	St. Andrew's Bay.	Had a cargo of fresh herring. Was proceeding to St. Andrews to clear at Custom House, and had a note certifying that the schooner had been entered at the Custom House, St. Andrews.
Addie.....	E. Childers.....	E. Childers.....	15	2	do	...	do	14...	do	Had on board a cargo of fresh herring. Was proceeding towards St. Andrews to clear the same at Custom House, and had a note from Collector Gove, showing that the vessel had been entered there.
Eclipse.....	D. Greenlaw.....	M. Greenlaw .....	65	3	do	...	do	17...	Off Swallow Tail, N.B....	Had on board a cargo of salt and fresh herring and had a clearance from Grand Harbor, Grand Manan, issued 16th October.
Margaret Leonard....	W. Stewart.....	James Hedding....	68	4	do	...	do	17...	Flagg's Cove, N.B.	Had put into Flagg's Cove in distress and was in the hands of the Collector.
Wide Awake .....	Wm. Foley.....	Wm. Foley.....	8	2	do	...	do	18...	Bliss' Harbor, N.B.	Had nothing on board and the captain was at St. George entering at Custom House.

SCHEDULE of Fishing Vessels boarded during the Season of 1886--Continued.

Copy of Boarding Book of Schooner "GENERAL MIDDLETON," JAMES McLEAN, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Cora.....	James Davis .....	James Davis.....	10	2	Eastport, Me.....	Oct. 22...	Bliss Harbor, N.B.	Had no fish on board, but had a clearance from James McKay, Collector, St. George, for eight hogsheads of fish.
Fannie .....	G. Mulholland.....	G. Mulholland.....	13	2	do	do 22...	Beaver Harbor, N.B.	Had no fish on board, but had a clearance from J. McKay, Collector, St. George, for 33 hogsheads of fish, issued Oct. 19th, but admitted he could not carry more than 18 hogsheads. Cautioned against using it as it was quite unlawful.
Cora.....	James Davis.....	James Davis .....	10	2	do	do 27...	Bliss' Harbor, N.B.	No fish on board and captain gone to St. George to report to Collector.
Sea Foam.....	E. Greenlaw.....	E. Greenlaw.....	10	2	do	do 27...	do	Came to load a cargo of fish Warned against loading fish without previously entering at Custom House.
Owl .....	J. Randall.....	J. Randall.....	9	2	do	do 27...	do	Had a clearance for 12 hogsheads of fish granted by Collector McKay, of St George, Oct. 23rd, but had none on board. Informed him his clearance was not lawful and he must enter at Custom House.
Carey Chicken .....	W. Leighton.....	T. Robinson .....	12	2	do	do 29...	Quoddy Bay, N.B.	Had a cargo of fish and a clearance which was granted by J. McKay before loading his fish. Cautioned by Commander about Customs regulations.

Minnie G.....	S. Mitchell.....	S. Mitchell. ....	9	2	do	.....	do	29...	do	...	Bound into St. Andrews to enter at Customs House for loading fish.
Gracie L .....	C. Lewis.....	C. Lewis .....	10	2	do	.....	do	Nov. 1...	do	...	Was sailing towards Eastport, no fish on board. Was ordered to clear at Customs House immediately. Complied with.
Nellie Kane, Str.....	E. Blanchard. ....	P. Sullivan.....	11	2	do	.....	do	do 1...	do	...	Was towing a raft to Eastport, had not been to report at Customs House and was warned against leaving Canadian waters without having cleared at Customs House.
Collector.....	D. McQuoid.....	D. McQuoid.....	64	3	do	.....	do	do 2...	Bocabec, N.B..		Taking in cordwood, had entered at Customs House, St Andrews
Carrie W .....	J. Freeman.....	J. Freeman .....	8	2	do	.....	do	do 2...	Digdequash, N.B.		Taking in fish, had entered 1st November, at St. Andrews, Customs House.
Wide Awake.....	Wm. Foley.....	Wm. Foley .....	9	2	do	.....	do	do 12...	East Quoddy } do		Detained for not having cleared their cargoes of fish at the Customs House, West Isles. The master of both sloops said they had been to Collector McKay's office and waited until 10.45 a.m. and as he had not come concluded to sail to the cutter for information.
Icenia.....	Luther Green.....	Luther Green.....	9	2	do	.....	do	do 12...			
Linwood.....	Charles Lord.....	Charles Lord.....	10	2	do	.....	do	do 12...	do	...	No fish on board. Master acknowledged having been in Canadian waters since 29th October, without reporting at Customs House. Vessel was bound to Eastport. Detained by Commander.
Maud.....	Loring Cross. ....	Loring Cross.....	8	2	do	.....	do	do 12...	do	...	Bound to Eastport with a cargo of fish; the master had neither entered or cleared his boat. Detained by Commander.
Half Breed.....	Hilman Allen.....	Hilman Allen.....	8	2	do	.....	do	do 12...	do	...	Had on board 8 hogsheads of herring and a clearance for same given by Collector of West Isles, dated 12th November.
Nellie G.....	Henry Greenlaw.....	Henry Greenlaw...	9	2	do	.....	do	do 12...	do	...	Had on board 8½ hogsheads of herring and a clearance for same given by Collector of West Isles on 12th November.
Gilbert.....	Pike & Gillis. ....	W. Miller.....	8	2	Lubec.....	.....	do	do 12...	Quoddy River.		Bound to Lubec, no cargo on board but had cleared his boat at St. George on 8th November.

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—*Continued.*

Copy of Boarding Book of Schooner "GENERAL MIDDLETON," JAMES McLEAN, Commander.

NAMES OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Cora.....	James Davis.....	James Davis .....	7	2	Eastport, Me.....	Nov. 12...	East Quoddy...	Had on board 9 hogheads of herring bound to Eastport and had cleared the same 16th November at St. George.
Sea Foam.....	Elijah Greenlaw.....	E. Greenlaw .....	6	2	do .....	do 12...	do	Had on board 4 hogheads of herring, for Eastport and had cleared the same at St. George on 5th.
Willie A.....	W. Akers.....	W. Akers.....	7	2	do .....	do 12...	do	Had nothing on board but had cleared his boat on 11th November, at St. George.
Owl.....	W. Freeman.....	W. Freeman.....	8	2	do .....	do 19...	Bliss Harbor...	Absent at St. George, reporting at Customs House. No fish on board.
Powlowna.....	Daniel Greenlaw.....	D. Fulmore.. ..	28	3	do .....	Dec. 18...	Friar's Bay...	Came to anchor for shelter. Had no cargo on board, and had been fishing until last summer when she was converted into a coaster and was coasting at the present time.
Lizzie Jones.....	Frank Thompson.....	Henry Thompson..	80	12	Gloucester, Mass...	do 20...	Off Head Harbor.	Bound to Eastport from Gloucester to procure bait for fishing on the Georges' Bank.
Charles Boynton.....	Michael Whalen.....	M. McGuinness .....	72	14	do .....	do 20...	West Quoddy..	do
Oasis.....	Jacob Small.....	Jacob Small.....	18	2	Eastport, Me.....	do 21...	St. Andrews Harbor.	Was formerly a fishing vessel, but has now for some years been coasting and was going to load hay for Eastport.

JAMES McLEAN,  
*Commander of the Government Fisheries Protection Schooner "GENERAL MIDDLETON".*

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "LIZZIE LINDSAY," L. POULIOT, Commander.

NAME OF VESSELS AND OWNERS.			TONNAGE.		PORT OF REGISTRY	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Annie E. Paint. ....	Peter Paint & Sons...	Charles Martin ...	81	16	Port Hawkesbury.. N.S.	Aug. 1...	Off Shippegan Island. Ship Channel.	Just out.
Enola C. ....	R. S. Cunningham...	.....	62	14	Gloucester, Mass...	do 3...	Off Fox Island N.B.	40 brls. mackerel, 10 miles off Miramichi. In for water.
Flora Dillaway. ....	Walen & Sons .....	James Dewett .....	77	16	do	do 3...	Portage Island Harbor, N.B.	15 brls. mackerel. Off North Cape. In for shelter.
Liza Boyton .....	Will Parsons.....	Geo. P. Martin.....	84	16	do	do 3...	Miramichi Bay	450 brls. mackerel. Between Miramichi and Miscou.
Florence. ....	Oakes & Anderson...	Peter Richardson.	89	16	Halifax, N.S. ....	do 3...	do	Just out. In for shelter.
Henry Dennis. ....	Geo. A. M. McLane.	Fred. Orne.....	91	16	Gloucester, Mass...	do 3...	do	60 brls. In for shelter.
Addie M. Deering ...	A. M. Smith.....	Emery Golt.....	96	13	Portland, Me.....	do 4...	do	Just out. In for shelter.
John Nye .....	W. L. Joyce.....	W. L. Joyce .....	63	15	Deer Island, Me...	do 4...	do	200 brls. Between Tracadie and Miscou.
John G. Whittier....	Rowe A. M. Jordan.	Rowe A. M. Jordan	99	17	Gloucester, Mass...	do 4...	do	Between Tracadie and Miscou.
Mollie Adams.....	S. Jacob Adams .....	S. Jacob Adams...	117	17	do	do 4...	do	150 brls. In for shelter.
Fannie W. Freeman.	Geo. Clark & Co.....	Morris Whaler....	90	16	do	do 4...	do	250 brls. mackerel. Off Shippegan.
Birdie Pierce.....	John P. Aikin.....	John P. Aikin....	90	16	do	do 4...	do	150 brls. In for shelter.
John W. Campbell...	Collin Chisholm....	Collin Chisholm...	79	15	do	do 4...	do	300 brls. 12 miles east of Miscou.
Oresa.....	Andrew Leighton...	S. W. Smith .....	82	16	do	do 4...	do	Just out. In for shelter.
Vesta .....	Silvenus Smith & A. E. Bradley. ....	John S. Taples ....	75	16	do	do 4...	do	340 brls. mackerel. 10 miles off Shippegan.
Abendele.....	R. B. Babbidg .....	R. B. Babbidg ....	57	14	North Haven, Me.	do 4...	do	260 brls. mackerel. 10 miles off Shippegan.
Oceola .....	Oakes & Anderson...	William Naus.....	83	14	Halifax, N.S. ....	do 4...	do	90 brls. Between Miramichi and North Cape.
Hattie L. Newman...	D. Allen & Sons.....	A. W. Richards...	94	16	Gloucester, Mass..	do 4...	do	100 brls. Off Shippegan and North Cape.
Nellie M. Davis. ....	A. Melanson.....	A. Melanson.....	90	16	do	do 4...	do	50 brls. On Bradley Bank.
Fred P. Frye .....	Sidney Smith.....	Sidney Smith.....	81	17	do	do 4...	do	400 do

SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

Copy of Boarding Book of Schooner "LIZZIE LINDSAY," L. POULIOT, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Millie Washburg..... Charles C. Warren..	Rich .....	John Goncalves.... W. Callett.....	70 104	17 16	Provincet'n, Mass. Gloucester, Mass...	Aug. 4... do 4...	Miramichi Bay do ...	Just out, 2nd trip. In for shelter. 150 brls. Between Miramichi and Miscou,
Frank A. Ratcliffe...	do .....	Emons Ratcliffe....	99	17	do ...	do 4...	do do	85 brls. mackerel. 10 miles off North Cape. In for shelter.
Grover Cleveland....	Debutts & Dagatt....	John E. Conway...	87	16	Boston, Mass. ....	do 4...	do do	60 brls. mackerel. 10 miles off North Cape. In for shelter.
Elsie M. Smith .....	A. M. Smith.....	Nicholas Bulger ...	106	17	Portland, Me.....	do 4...	do do	350 brls. mackerel. Between Mi- ramichi and North Cape. In for shelter.
Maud S.....	F. H. Smith.....	Franklin Thomas.	75	16	North Haven, Me..	Sept. 2...	3 miles north of Point Birch Lighthouse.	300 brls. mackerel caught between North Cape, P.E.I., and Ship- pegan. Captain being off Pigeon Hill experienced heavy S.W. breeze with nasty sea, bore away under Miscou for shelter. Friday morning, the 3rd, at daylight the wind being N.W., the same schooner was hardly visible from the mast head. Sailing south, well outside the limits. 3 weeks out and not a mackerel caught. Having made water, the schooner got under weigh and sailed south. Followed her out, well outside of Miscou, and well outside of limits.
Morning Star .....	T. L. Mayo.....	P. P. Smith.....	76	16	Boston, Mass.. . .	do 8...	Port Daniel....	

L. POULIOT,  
Commander of the Government Fisheries Protection Schooner "LIZZIE LINDSAY."

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Steamer "LANSDOWNE," CHARLES T. DAKIN, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
J. B. Putnam.....	David Crowell.....	Chas. Rudolph.....	76	14	Salem, Mass .....	March 26...	Pubnico, N.S.	Arrived from Beverly, Mass., 24th March, bound to Western Banks, fishing voyage. Captain and crew belong to Pubnico. They are here for clothing and water. Got his bait in Gloucester. He said there were 4 or 6 American fishermen bound here, whose Captain and crew belong here. Expect them here the first of the week. He said there was 1 American in Argyle, N.S. (Sailed at 8 a.m., 22nd March.) Arrived 25th at 8 p.m. No one on board.
David L.....	Jno. F. Wanson.....	Jas. L. Kenny .....	.....	14	Gloucester, Mass...	do 26...	Argyle, N.S.	Arrived from Gloucester 26th March. Bound to West Banks. Has bait on board from home. Boarded him while going out.
Frank William.....	W. E. Wanson.....	J. Malone... ..	63	15	do ..	do 27...	Barrington, N.S.	Came in for shelter this a.m. about 5. In want of water. Would sail as soon as possible. (Sailed at 5.15 a.m., 29th March.)
J. B. Putman.....	D. Crowell.....	Chas. Rudolph.....	76	14	Salem, Mass.....	do 28...	Shelburne, N.S.	Arrived 28th March 5 p.m. Bound to West Banks. Came in for shelter. (Sailed 31st March.)
Zenobia.....	Geo. Steele.....	D. Morrissey.....	76	14	Gloucester, Mass...	do 29...	Pubnico, N.S.	Arrived 27th March. Captain and crew belong to Pubnico. (Sailed at 8 a.m. 31st March.)
A. J. Duncan.....	do .....	W. E. Morrissey....	83	14	do ..	do 29...	do ..	Arrived 29th March. Captain on shore. (Sailed at 8 a.m. 31st March, for West Banks.)
Knight Templar.....	do .....	Leander Jamieson.	69	14	do ..	do 29...	do ..	

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Steamer "LANSDOWNE," CHARLES T. DAKIN, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Plymouth Rock ....	Geo. Steele.....	J. D. Morriscy ....	92	14	Gloucester, Mass ..	March 29...	Pubnico, N.S.	Arrived 28th March. Has bait on board from home. Came in for shelter. Being ordered out, would sail as soon as possible. (Sailed 31st March, at 8 a.m.)
Satellite .....	E. Woodley... ..	L. Hawkins.....	20	7	Eastport, Me.....	April 15...	Beaver Harbor, N.B.	The owners belong to Beaver Harbor and state that they are about to change her register. (Ordered her owners to change her papers immediately.)
Northern Light, ....	Geo. E. Proctor.....	J. Patterson.. ..	53	12	Gloucester, Mass...	do 23...	Shelburne, N.S.	Came in from Gloucester on the 22nd having lost his main topmast. Has his bait on board. Would go to sea immediately.
Electric Light .....	.....	.....	15	3	.....	do 23...	Clarkes Harbor, N.S.	Lobster smack.
Falcon.....	A. Layton.....	Malone.....	68	14	Gloucester, Mass...	do 28...	St. Andrews Bay, N.S.	In seeking for bait. Found no fish or nets on board. They say their owners gave them orders to buy bait in Canadian waters.
Cassie E. Saywood	M. Saywood.....	W. Phillips. ....	59	11	do	do 28...	do	Ordered them to leave for their own shore. They went immediately.
Pioneer.....	C. Whalen.....	J. Crockett. ....	62	12	do	do 28...	do	
Athstockly.....	G. Norwood... ..	A. Olsen.....	83	14	do	do 28...	do	
David J. Adams.....	Jesse Lewis... ..	A. Kenny.....	66	13	do	May 7...	Digby, N.S.....	She arrived on the 6th. Had no bait on board. Came in to see his people. Was seized for a violation of Customs Laws and Fisheries Act. (Was seized at 4 p.m., 7th May.)
Horace Albert.....	J. Smith .....	J. W. Rowe.....	65	12	do	do 8...	do	Came in on night of the 7th for a harbor. Ordered him to leave. (Sailed at 8 a.m.)

Zenobia .....	Geo. Steele.....	D. Morrissey.....	75	14	do	...	do	18...	Pubnico, N.S..	From Gloucester on 16th. Bound for Grand Banks. Has no bait on board. Going to Newfoundland for fit. Came in for wood and water. All belonging here. Ordered to sea. (Sailed as soon as ordered out.)
Knight Templar.....	do .....	Leander Jamieson.	69	14	do	...	do	18...	do	From Gloucester. Arrived on 17th tells same story as "Zenobia." Ordered to sea. (Sailed as soon as ordered out.)
Conductor .....	T. Haskell.....	E. Chapman.....	69	14	do	...	do	June 2...	do	Came in for repairs having lost main top-mast. Arrived 31st May. Bound for Grand Banks. Has no bait having no ice to put it on. Ordered him to sea, as soon as repairs were completed. (Sailed on the 4th, having been detained by fog.)
J. G. Craig.....	Cash & McKay.....	J. Webber .....	73	18	Portland, Me.....	June 19...	Liverpool, N.S.	June 19...	do	Came in for water. Has a sick man on board, doctor detained the vessel. Had clams for bait. Boarded her when she was about on the limits and the captain reports having left Gloucester two weeks ago and just come out of Richmond Harbor or Malpeque. 220 brls. mackerel on board, but did not catch any inside of 5 miles. Examined his seines and found them dry. Cutter "Critic" spoke her the day before.
Mollie Adams.....	Solomon Jacobs.....	S. Jacobs .....	117	17	Gloucester, Mass...	July 3...	Off Richmond Harbor, P.E.I.	July 3...	do	All in for shelter at Richmond Harbor, owing to the storm of yesterday, and all sailed to sea at 9 a.m., except one which had a broken jib-boom. Cutters "Critic" and "Houlett" there and both sent officers and boarded the schooners and ordered them out before the "Lansdowne" had arrived. We were unable to get the names of the owners of some of the vessels that had already started to sea, but the "Houlett" spoke them all.
R. T. Newcombe .....	S. Linell .....	Linell .....	66	14	do	...	do	7...	do	
Fanny Bell .....	W. B. Coomb.....	F. H. Hall .....	81	17	do	...	do	7...	do	
H. G. Froame.....	J. W. Campbell & Co .....	J. Chisholm.....	95	16	do	...	do	7...	do	
H. N. Woods.. ..	G. Norwood & Son..	H. McAchern.....	84	16	do	...	do	7...	do	
E. A. Thomas .....	C. D. Thomas.....	C. D. Thomas.....	.....	.....	Portland, Me.....	...	do	7...	do	
W. J. Crosby .....	F. Carol .....	F. Carol .....	107	17	Gloucester, Mass...	...	do	7...	do	
W. S. Smith.....	A. M. Smith.....	L. W. Jewett.....	109	17	Portland, Me.....	...	do	7...	do	
Mollie Adams.....	S. Jacobs .....	S. Jacobs .....	117	17	Gloucester, Mass...	...	do	7...	do	
Nellie W. Long .....	E. Lewis .....	E. Lewis .....	79	17	do	...	do	7...	do	
Martha C .....	L. Whalen .....	A. W. Cunningham	75	16	do	...	do	7..	do	
M. Oastie.....	McKenzie, Harding & Co.....	E. Joyce.....	88	17	do	...	do	7...	do	
Leona .....	W. G. Poole.....	W. G. Poole .....	95	16	do	...	do	7...	do	
C. H. Low .....	Benj. Low .....	A. McKenzie.....	75	16	do	...	do	7...	do	
Orient.....	Chas. Lee .....	Chas. Lee .....	89	16	do	...	do	7...	do	
E. W. Sawyer.....	J. W. Sawyer.....	Jno. Orchard.....	103	16	Portland, Me.....	...	do	7...	do	
May Flower .....	Cunningham & Co..	Jno. A. McKinnon.	108	16	Gloucester, Mass...	...	do	7...	do	

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Steamer "LANDSDOWNE," CHARLES T. DAKIN, Commander.

Vessels.	NAME OF VESSELS AND OWNER.		TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
	Owner.	Master.	Tons.	Men.		Date.	Place.	
W. H. Foy.....	S. Smith.....	J. N. Joyce.....	66	15	Gloucester, Mass...	Aug. 3...	Miramichi, N.B.	Left home one week ago and arrived in the gulf yesterday. Came in for harbor last night. 10 brls. mackerel on board. Ordered to sea.
Cora Louise.....	S. Nickerson & Son.	A. Harris.....	64	16	Booth Bay, Me.....	do 3...	do	Left Canso last Thursday. Came in for harbor last night. About 16 brls. mackerel on board. Ordered to sea.
Caroline Vault.....	J. C. Pool.....	O. S. Reid.....	79	17	do	do 4...	Paspebiac, Q..	Came in for water. 140 brls. mackerel on board. Been out 10 weeks. Ordered to leave and left immediately.
D. Simmons .....	M. Stenson .....	J. Gott.....	66	16	Casline, Mass.....	do 18...	Cape Kildare. P.E.I.	Left Cansumpec this a.m. Here to make a sea. Bound around Cape North; has been in the Bay 2 weeks and has not got any mackerel yet. Sailed at once.
J. W. Campbell .....	Ben Low.....	C. Chisholm.....	79	15	Gloucester, Mass...	do 18...	Cansumpec, P.E.I.	Came in for shelter on the 17th, also wood. 350 brls. mackerel on board, all caught outside limits. Will sail in the morning. In for shelter and repairs of sail. Entered at Custom House. Will sail in the morning.
Robert Rhodes.....	W. S. Gordon.....	F. J. Welsh.....	57	14	Portland, Me.....	do 18...	do	Here for shelter and repairs. 65 brls. mackerel on board, all caught outside limits.
L. B. Harris .....	J. Kinton .....	F. Ellis .....	51	12	Boston, Mass .....	do 18...	do	The above were ordered to sea and left on the 19th, all having entered at Custom House.

Aberdeen .....	Fitz Thomas.....	Fitz Thomas .....	65	14	Gloucester, Mass...	Aug. 25...	Miminigash, P.E.I.	Here for shelter. 100 brls. mackerel on board. Ordered off limits, and she sailed immediately.
Maggie and Lillie....	J. Pen & Son.....	J. Garry .....	77	16	do	do	Cascumpec, P.E.I.	In for shelter. Ordered to leave in the morning. 40 brls. mackerel.
Howard Holbrook....	Oakes & Foster.....	C. H. Keene .....	92	16	do	do	Horse Head....	100 brls. mackerel on board, caught outside limits. 2 weeks.
A. N. Burnham.....	E. W. Wilson.....	E. W. Wilson.....	60	15	do	do	do	50 brls. mackerel. In Bay, 3 do
S. H. Prior .....	T. McLaughlan. ....	T. McLaughlan....	97	16	Boston, Mass.....	do	do	140 do Caught within a month.
Grover Cleveland....	DeButts & Dagath....	J. E. Conway.....	87	16	do	do	do	160 do Out one month
J. M. Plummer.....	J. E. Figgett.....	J. L. Clerke.....	95	16	Portland, Me.....	do	do	140 do
J. Swanton.....	C. D. Thomas.....	G. W. Griffin.....	60	14	do	do	do	65 do
Cynosure .....	S. Nickerson & Son..	L. J. Rush .....	69	17	Booth Bay, Me.....	Sept. 2...	Tignish, P.E.I.	All in for shelter under Horse Head. Ordered to sea, and all sailed immediately.
Milly M. Snow .....	J. Young.....	A. E. Snow.....	60	16	Wellfleet, Mass.....	do 2...	Cascumpec, P.E.I.	In for shelter. 50 brls. 3 weeks. Shelter. 228 brls. mackerel. 4 weeks.
Annie Sergeant.....	T. Chase & Co.....	W. Fisher.....	63	15	Portland, Me.....	do 2...	do	Shelter.
Ed. Rich .....	R. R. Fournier.....	J. Nouell.....	74	16	Wellsfleet, Mass...	do 4...	Malpeque, P.E.I.	do
Fanny Belle.....	W. B. Coomb.....	F. H. Hall .....	80	17	Gloucester, Mass...	do 4...	do	do 140 brls. 2 weeks' catch.
H. Wood .....	G. Norwood & Son...	H. McAchern.....	84	16	do	do 4...	do	do 75 do
Robin Hood.....	J. Manfield & Son...	A. J. Burnham.....	88	16	do	do 4...	do	do 50 do 4 do
E. T. Walen.....	N. Walen & Son.....	P. McDonald.....	78	17	do	do 4...	do	do No fish on board.
J. W. Campbell.....	B. Low.....	O. Chisholm.....	79	15	do	do	Tignish, P.E.I.	The above schooners were ordered to sea and sailed immediately outside limits.
Endrager .....	J. Mansfield & Son...	J. Mason .....	68	16	do	do	do	In for shelter and for water. Has 300 brls. mackerel.
L. W. Dyer.....	O. A. Dyer.....	J. H. Greenlaw....	78	16	Portland, Me.....	do	do	In for shelter and for water. Has 173 brls. mackerel.
Ralph Hotchon. ....	T. F. Hotchon.....	T. F. Hotchon.....	85	17	Gloucester, Mass...	do	do	In for shelter and water. Has 70 brls. mackerel. 3 weeks' catch.
Fleetwing .....	E. Montgomery & Son	W. G. Keefe.....	56	14	do	do	Cape Kildare..	In for shelter and water. Has 150 brls. mackerel.
Vesta .....	S. Smith.....	J. S. Staples.....	75	16	do	do	Horse Head....	Above schooners sailed the following morning. Ordered to sea, In for shelter. Has 342 brls. sailed at once. Sailed outside limits as soon as ordered, Has no mackerel. Just from home on his 2nd trip.
G. W. Purse.....	L. Chase & Wilton..	M. Orchard.....	59	16	Portland, Me.....	do 13..	Souris, P.E.I..	In Souris for shelter.
Ed. Rich .....	R. R. Fournier.....	J. Noull .....	74	16	Wellfleet.....	do 13..	do	
R. S. Newcombe .....	A. E. Linell.....	S. Linell.....	66	14	Provinceto'n, Mass	do 13..	do	
H. G. French .....	J. Chisholm .....	J. Chisholm .....	95	16	Gloucester, Mass...	do 13..	do	
Lottie E. Hopkins...	M. J. Hopkins .....	M. J. Hopkins.....	66	13	Vinal Haven, Mass.	do 13..	do	
A. S. R. Hammond...	A. S. Hammond.....	A. S. Hammond...	66	14	Chatham, Mass....	do 13..	do	

# SCHEDULE of Fishing Vessels boarded during the Season of 1886—Concluded.

Copy of Boarding Book of Steamer "LANSDOWNE," CHARLES T. DAKINS, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHEN BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Ella M. Adams.....	G. Norwood & Son..	T. Perrish.....	80	17	Gloucester, Mass...	Sept. 13...	Souris, P. E. I..	
Hattie B. West.....	Shoold Merchand ...	G. Jackman .....	53	14	do	do 13...	do	
Maggie & Lillie.....	J. Pew & Son. ....	J. Gerry.....	77	16	do	do 13...	do	
Robin Hood.....	J. Campbell & Son...	A. J. Burnham.....	88	16	do	do 13...	do	
E. E. Webster .....	S. Jacobs.....	S. B. Hudder.....	93	16	do	do 13...	do	
W. V. Hutchings...	G. Friend.....	J. Burst.....	59	14	do	do 13...	do	
Wm. M. Geoffery....	Geo. Smith.....	J. W. Thomas .....	70	16	do	do 13...	do	
Pioneer.....	S. Whalen.....	R. Gilchell.....	62	15	do	do 13...	do	
Fleetwing.....	B. Montgomery & Son	W. G. Keiff.....	56	14	do	do 13...	do	
Mary Parnell.....	S. Larr.....	J. Simpson.....	76	16	do	do 13...	do	
S. R. Crane.....	McDurmand.....	O. Whetten.....	74	17	do	do 13...	do	
Mattie L. Newman...	D. Allan.....	A. W. Richard.....	93	16	do	do 13...	do	
Carrie E. Parson.....	M. K. Hardy.....	A. Greenlaw.....	80	16	do	do 13...	do	
J. D. Whittier .....	R. Jordan.....	W. Thurston.....	99	17	do	do 13...	do	
Pendragon.....	J. Mansfield.....	J. Mason.....	68	16	do	do 13...	do	
W. D. Daisley .....	J. Gorman.....	J. Gorman.....	93	16	do	do 13...	do	
Wildfire .....	Geo. Steele.....	P. McFarlane .....	108	16	do	do 13...	do	
Hattie Eveline.....	J. A. Cromwell.....	J. A. Cromwell.....	68	14	do	do 13...	do	
Addison Centre.....	Margeson .....	S. Rowe .....	71	15	do	do 13...	do	
Ossipee.....	Cunningham & Thompson.....	J. Johnson.....	68	15	do	do 13...	do	
Isaac A. Chapman...	H. Robson .....	B. F. Spray .....	80	16	do	do 13...	do	
Bush Light.....	J. F. Wonson & Co...	J. S. Kenney.....	63	14	do	do 13...	do	
Belle Franklin.....	do	H. D. Kendricks.....	75	16	do	do 13...	do	
J. Garland.....	Cunningham & Thompson.....	C. T. Ring.....	76	16	do	do 13...	do	
F. Sperlan.....	A. M. Smith.....	C. Parvis .....	81	16	Portland, Me.....	do 13...	do	
Waterfall.....	J. W. Sawyer.....	B. Long .....	70	16	do	do 13...	do	
M. S. Smith.....	A. M. Smith.....	L. W. Jennett .....	109	18	do	do 13...	do	

In Souris for shelter.

CHARLES T. DAKINS,  
Commander of the Government Fisheries Protection Steamer "LANSDOWNE."

SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Steamer "ACADIA," P. A. SCOTT, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
Emma W. Brown.....	J. W. McFarlane ....	J. W. McFarlane..	90	12	Gloucester, Mass...	Sept. 8...	Strait of Canso N.S.	Came in for water Ordered to sea, and left immediately. Bound for Bay Chaleurs.
C. Ellsworth. ....	Jas. Ellsworth.....	Jas. Ellsworth.....	92	12	Eastport, Me.....	do 8...	do	For water. Ordered to sea and left immediately. Had entered at Custom House.
Herald of the Morn'g	L. N. McLean.....	L. N. McLean.....	68	16	Gloucester, Mass...	do 23...	Georgetown, P.E.I.	Came here Sept. 20th for repairs. 104 brls. mackerel. Out 4 weeks.
W. V. Hutchings.....	G. Friend .....	J. M. Bearse .....	59	14	do	do 23...	do	Came in for shelter only, Sept. 20th. Has been in the Bay 6 weeks. 30 brls. mackerel on board.
W. N. Wellington....	J. A. S. Steele.....	J. D. S. Nickerson	81	16	do	do 23...	do	Here for shelter and repairs. Main gaff gone. In the Bay 6 weeks. 180 brls. mackerel on board.
M. S. Smith .....	A. M. Smith .....	L. W. Jewett.....	109	18	Portland, Me.....	do 23...	do	Shelter and repairs. Main hatch gone. Came in Sept. 20th. In Bay 8 weeks. 370 brls. mackerel.
Bartie Pierce.....	J. P. Akins.....	J. P. Akins.....	90	16	Gloucester, Mass...	do 23...	do	Came in Sept. 20th for shelter and repairs. Iron work forward gone. In Bay 8 weeks. 300 brls. mackerel on board.
Carrie E. Parsons....	McKenzie, Harding & Co.....	A. Greenlaw... ..	80	16	do	do 25...	Port Hood, N.S.	The above schooners were ordered to sea as soon as repairs were made good; and those in for shelter only left immediately.
J. W. Bray.....	J. F. Wonson & Co.	Geo. McLean.....	79	16	do	do 25...	do	In for shelter, Sept. 24th.
Sarah H. Pryor.....	P. H. Prior.....	T. McLaughlan....	97	16	Boston, Mass.....	do 26...	do	do
M. S. Smith.....	A. M. Smith.....	J. W. Jewett.....	109	18	Portland, Me.....	do 26...	do	Sept. 26th.
A. R. Cullenden.....	Isaac Steele.....	Jos. E. Graham....	91	16	Gloucester, Mass...	do 26...	do	do
W. V. Hutchings.....	G. Friend.....	J. M. Bearse.....	59	14	do	do 26...	do	do

SCHEDULE of Fishing Vessels boarded during the Season of 1886—Continued.

COPY of Boarding Book of Steamer "ACADIA," P. A. SCOTT, Commander.

NAME OF VESSELS AND OWNER.			TONNAGE.		PORT OF REGISTRY.	WHEN AND WHERE BOARDED.		REMARKS.
Vessels.	Owner.	Master.	Tons.	Men.		Date.	Place.	
R. J. Edwards .....	J. Sayer.....	A. O. Decker.....	80	16	Gloucester, Mass...	Sept. 26...	Port Hood, N.S.	In for shelter.
Pendragon .....	A. Mansfield.....	J. Mason.....	68	16	do	do 26...	do	do
J. A. Chapman.....	H. Babson.....	B. F. Sprague .....	80	16	do	do 26...	do	do
R. Seeter.....	J. G. Law.....	J. Vibert.....	69	16	do	do 26...	do	do
Vesta.....	S. Smith & Co.....	J. S. Staples.....	65	15	do	do 26...	do	do
M. A. Bradley .....	do .....	J. F. Vaulier.....	72	16	do	do 26...	do	do
E. W. Browne.....	J. McFarlane.....	J. McFarlane.....	74	16	do	do 26...	do	do
Lizzie M. Center.....	Joseph Smith.....	Joseph Smith.....	77	16	do	do 26...	Port Hawkesbury, N.S.	Repairs, main boom gone, &c.
Gertie Evelyn .....	A. Leighton.....	D. McIntyre.....	81	15	do	Oct. 9...	Aspy Bay, N.S.	In for shelter.
A. R. Crittenden....	J. Steele.....	J. E. Graham. ....	81	16	do	do 9...	do	do
Edith S. Whalen.....	W. Walen & Son .....	P. McDonald.....	78	17	do	do 9...	do	do
Belle A. Nanse .....	L. Norse .....	L. Norse.....	88	16	do	do 9...	do	do
C. Parsons .....	McKenzie, Harding & Co.....	McKenzie, Harding & Co.....	80	16	do	do 9...	do	do
Martha Bradley .....	S. Smith.....	A. Greenlaw .....	73	16	do	do 9...	do	do
A. Freeman.....	G. Clarke & Co.....	J. F. Vaulier .....	90	16	do	do 9...	do	do
Mary A. Clark.....	do .....	N. Whalen.....	79	16	do	do 9...	do	do
Chas. Lee.....	Chas. Lee.....	H. F. Browne.....	89	16	do	do 10...	Ingonish, C.B.	do
E. Rowe .....	W. H. Jordan.....	Chas. Lee.....	80	16	do	do 10...	do	do
J. C. McFarlane.....	C. T. Keene .....	G. J. Swim .....	76	16	do	do 10...	do	do
J. G. White.....	Rowe & Jordan.....	Cunningham.....	99	16	do	do 10...	do	do
G. B. Walker.....	J. Langsford.. ..	W. Thurston .....	67	15	do	do 10...	do	do
H. Holbrook.....	Chas. A. Keene. ....	J. McDonald .....	92	16	do	do 10...	do	do
Mollie Adams.....	Sol Jacobs.....	Chas. A. Keene....	117	17	do	do 10...	do	do
Spencer Faird. ....	J. T. Tarr & Son. . .	Sol Jacobs.....	74	16	do	do 10...	do	do
H. Babson .....	C. G. Lawson.....	J. A. Vernil .....	95	16	do	do 10...	do	do
Night Temple.....	J. Steele.....	C. R. Smith .....	69	15	do	do 10...	do	do
A. W. Freeman.....	J. Clarke & Co.....	N. A. McKenna....	96	15	do	do 10...	do	do
E. W. Browne.....	J. McFarlane.....	M. Whalen .....	73	16	do	do 10...	do	do
Centennial.....	D. C. & W. Babson.	J. McFarlane.....	100	17	do	do 10...	do	do
Carrie Parsons.....	McKenzie, Harding & Co.....	A. McGray .....	80	16	do	do 12...	Sydney, C.B...	Shelter. 48 brls. mackerel.

J. Scavarius .....	J. T. Tupper .....	J. T. Tupper .....	106	17	do	...	do	12..	do	Shelter & water.	105 brls mack'r'l.
S. H. Pryor .....	P. H. Pryor .....	C. McLaughlin ....	97	17	Boston, Mass .....	...	do	12...	do	do	do
J. G. Whittier .....	Rcwe & Jordan .....	W. Johnston .....	99	16	Gloucester, Mass...	...	do	13...	do	do	do
S. F. Baird .....	J. G. Law .....	J. Bibert .....	74	16	do	...	do	13...	do	do	do
E. W. Browne .....	J. W. McFarlane .....	J. W. McFarlane...	74	16	do	...	do	13...	do	do	do
Orient .....	Charles Lee .....	Charles Lee .....	95	16	do	...	do	13...	do	do	do
Centennial .....	D. C. & C. Babson...	A. McGray .....	110	17	do	...	do	15...	Ingonish, C.B.		

CAPT. P. A. SCOTT, R.N.,  
*Commander of the Government Fisheries Protection Steamer "ACADIA."*

APPENDIX B.

SCHEDULE of United States Fishing Vessels seized or detained during the Season of 1886 for violations of the Fisheries and Customs Laws ; date and place of detention or seizure ; nature of offence, and action thereon.

NAME OF VESSELS, TONNAGE, ETC.		PORT OF REGISTRY.	WHEN AND WHERE SEIZED OR DETAINED.		NATURE OF OFFENCE.	REMARKS. How disposed of.
Vessels.	Tons.		Date.	Place.		
David J. Adams ...	66	Jesse Lewis (Owner), A. Kennedy (Master).	May 7...	Digby, N.S.....	Detained for purchasing bait, and for neglecting to report at Customs.	Case now pending in the Vice Admiralty Court of Nova Scotia.
Ella M. Doughty...	.....	W. A. Doughty (Master).	do 17...	Baddeck, N.S....	Seized for having taken on board a quantity of fresh fish and for not reporting at Customs.	Released on deposit of \$600, pending final deci- sion for offence against Customs Act and bond- ed for \$2,500 for pur- chasing bait. Case be- fore the Vice Admiralty Court of Nova Scotia.
City Point .....	85	Williams and others (Owners). Keene (Master).	July 2...	Shelburne, N.S...	Detained for not reporting at Customs.	Released on deposit of \$400, pending final de- cision.
Geo. W. Cushing..	73	H. Williams and others (Owners) C. B. Jewett (Master).	do 3...	do	Detained for not reporting at Customs.	do do
O. B. Harrington..	37	H. Williams and others (Owners). Frellick (Master).	do 3...	do	Detained for not reporting at Customs.	do do
Howard Holbrook.	93	Oakes & Foster (Owners). Chas. A. Keene (Mast'r)	Aug. 17...	Port Hawkes- bury, N.S.	Seized for having landed baggage without first reporting at Cus- toms.	do do
Legal Tender. ....	58	Tarr (Owner). Oscar Devine (Master).	do 27...	Barrington, N.S..	Seized for having landed part of crew without first reporting at Customs.	Vessel rescued and taken to sea. No further ac- tion.

A. R. Crittenden.	81	Isaac Steele (Owner) J. Graham (Master).	do	...	do	27...	Port Hawkes- bury, N.S.	Detained for non-reporting at Customs.	Released on deposit of \$400, pending final de- cision.
Highland Light....	87	John H. Ryden (Owner and Master)	Wellfleet, Mass....	Sept. 1...	Off East Point, P.E.I.	1...	Seized by C. M. Lorway, Com- mander of Cruiser "Honlett", for fishing within the three mile limit.	Tried before the Vice Admiralty Court at Charlottetown. Con- demned and sold by auction. Bought by the Canadian Government.	
Pearl Nelson .....	.....	M. Kempt (Owner and Master).	Provincetown, Mass.	do	8...	Arichat, N.S.....	Seized for having landed a num- ber of her crew without first reporting at Customs.	Released on deposit of \$200, which was after- wards refunded less expenses incurred, and seizure discharged.	
Everett Steele .....	68	Benjamin Spinney (Owner) C. H. Forbes (Master).	Gloucester, Mass...	do	10...	Shelburne, N.S..	Detained for non-reporting at Customs on entering port; also for a previous offence on the 25th March.	Allowed to proceed on her voyage by the Cus- toms authorities.	
Moro Castle .....	88	McKenzie & Harding (Owners). Ed. Joyce (Master).	do	...	do	14...	Port Hawkes- bury, N.S.	Released on payment of a fine of \$800 and a further sum of \$200 to cover expenses. Sei- zure discharged.	
Wide Awake .....	10	Wm. Foley (Owner and Master).	Eastport, Me.....	do	15...	St. George, N.B.	Seized for non-reporting at Cus- toms, inwards, and also out- wards, with a cargo, and for smuggling.	Released on deposit of \$75, pending final de- cision.	
W. D. Daisley .....	93	J. E. Gorman (Owner and Master)	Gloucester, Mass...	Oct. 4...	Port Hawkes- bury, N.S.	4...	Seized for having landed goods without reporting, or paying duty thereon at Customs.	Released on deposit of \$400, pending final de- cision.	
Marion Grimes .....	59	Ed. Morris (Owner).. Alex. Landry (Master).	do	...	do	9...	Shelburne, N.S..	Released on deposit of \$400, which was after- wards refunded, less expenses, and seizure discharged.	
Two American sar- dine boats .....	.....	.....	.....	Nov. 13...	do	do	CampoBello, N.B	Released on deposit of \$20 each.	

## APPENDIX C.

## STATEMENT of Expenditure in connection with Fisheries Protection Service, for the Year ending 31st December, 1886.

## SCHOONER "L. HOULETT."

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
Lorway, Capt. O. M.....	To pay wages of officers and crew.....	3,539 73	
do .....	Disbursements .....	227 93	
DeBlois, W. J.....	On account charter, from 15th May to 15th December, 1886.....	\$2,081 56	
Reynolds & Co., W. B....	Rope, cotton, &c. (chargeable to charter) .....	18 44	
Borbridge, S. & H.....	Belts, holsters, &c.....	2,100 00	
Scott & Co., Jas.....	Provisions .....	32 00	
Canadian Express Co....	Express charges .....	274 01	
Creighton & Marshall....	Stationery, charts, &c.....	19 10	
Meford, James S.....	Marlin spikes, standard, &c.....	23 72	
Cunard & Co., S.....	Coal .....	7 95	
Meyer, Frederick.....	Vegetables.....	15 38	
Bowser, J. ....	Carpenter's work .....	9 84	
McDougall & Cooke.....	Beds .....	16 90	
Reynolds & Co., W. B....	Hardware, rope, cotton duck, &c .....	8 40	
Militia Department.....	Rifles, revolvers, ammunition, &c .....	51 38	
Pickering & Co, W. F....	Clothing .....	580 75	
Smith, J. Godfrey.....	Medicines .....	348 75	
McLellan, Geo .....	Meat.....	3 60	
Flowers & Son, Geo .....	Ensign and pennants .....	33 20	
Smith, B. A .....	Blankets, sheeting, &c.....	7 80	
Egan, T. J .....	Repairing musket .....	18 90	
Martin & Co., R.....	Belts .....	1 30	
Leahy & Co, D. J.....	Meat.....	4 36	
Macdonald, Macdonald & Co .....	Provisions, quilts, &c .....	125 25	
McDonald, Hanrahan & Co .....	Provisions, &c .....	219 89	
Ball Bros.....	Meat, vegetables, etc.....	30 72	
Harrington, C. H.....	Flour, butter, &c.....	50 06	
Peppett, J. W .....	Provisions .....	48 36	
Moore & Co., W. H.....	do .....	41 53	
Deckoff, John.....	Beef .....	25 03	
Irwin, Geo .....	Provisions .....	3 51	
Stapleton & Son, J.....	Vegetables and meat .....	2 50	
Paint & Sons, Peter.....	Hardware .....	2 91	
McLean, J. C.....	Beef .....	5 63	
Rogers, Benj .....	Provisions .....	15 60	
Connolly, Owen .....	Forks, &c.....	27 10	
Paquet, M. J.....	Beef .....	0 75	
McIntyre, John .....	Provisions, iron, &c .....	2 97	
Whitman, A. H.....	Crockery, hardware, &c.....	2 37	
McDonald D. A .....	Wood.....	3 34	
Reeves, T. F.....	Vegetables .....	1 25	
Cunningham, & Sons H.R.	Hooks, staples, &c .....	2 00	
		1 04	
	Carried forward .....	7,936 81	

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con.*SCHOONER "L. HOULETT"—*Concluded.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward.....	7,936 81	
McKay, Neil.....	Beef.....	6 94	
Bain, Alexander.....	Clock, brush, &c.....	8 65	
Paint, jun., Peter.....	Lumber.....	1 62	
Embree & Sons, H. W....	do.....	6 65	
McArthur, J.....	Meat.....	3 06	
McGougan, R.....	Provisions.....	15 91	
Mathews, Chas.....	Vegetables.....	4 30	
Oulton, R. T.....	do &c.....	2 25	
Steam water boat "Annie".....	Water.....	5 10	
Scriven & Son, J. J.....	Bread.....	1 56	
Parker House.....	Board.....	7 00	
Bennett, Albert.....	Travelling expenses.....	45 26	
Judge, Peter.....	Water.....	1 50	
Hogan & Scns, Jno.....	Lumber.....	7 45	
			8,054 06

## SCHOONER "CRITIC."

McLaren, Capt. Wm.....	To pay wages of officers and crew.....	1,799 58
do.....	On account charter, from 15th June to 30th Oct., 1886.....	1,170 00
do.....	Disbursements.....	15 20
Jones & Co., T. R.....	Silk ties.....	22 80
Manks & Co.....	Caps.....	15 00
Militia Department.....	Rifles, revolvers, &c.....	611 75
Youngclaus, T.....	Shirts and pants.....	114 00
Dwyer & Co., C.....	Rope, medicines, &c.....	19 52
Pickering & Co., W. F....	Navy lace, cap, &c.....	12 05
Gordon, D.....	Provisions.....	55 47
Flowers & Son, Geo.....	Ensign and pennants.....	5 00
Egan, T. J.....	Repairing musket.....	1 30
Martin & Co, R.....	Belts.....	7 07
McLeod, A.....	Provisions.....	19 86
Macdonald & Bros., A. A	do.....	156 02
Pringle, Jno.....	Clothing.....	53 00
Gordon, H. H.....	Provisions.....	53 25
Brennan, J. P.....	do.....	82 44
Weeks, Jno. T.....	Beef, molasses, &c.....	30 34
Meagher, Thos.....	Vegetables.....	49 70
Dawson, Gordon & Co...	Powder, handcuffs, &c.....	22 00
McLaren, F.....	Wood.....	3 25
Jenkins, R.....	Carriage hire.....	2 00
Pope, W. H.....	Provisions.....	15 45
Hamilton & Sons, G. J...	do.....	3 20
Intercolonial Express Co	Freight.....	2 10
do Railway....	do.....	1 24
Gallais, M. L.....	Bread.....	3 75
Hobbs, A. P.....	Beef.....	0 90
Romeril, Geo.....	Freight and storage.....	0 60
Myrick & Co., J. H.....	Wood, &c.....	2 02
Keefe, Thos... ..	Potatoes.....	0 90
McLeod, A.....	Provisions.....	5 04
	Carried forward.....	4,356 80

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con.*SCHOONER "CRITIC"—*Concluded.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward .....	4,356 80	
Wells, Geo.....	Potatoes .....	1 20	
Harris, A. ....	Wood.....	3 50	
Donovan, Thos.....	Coal, &c.....	3 15	
Steam water boat "Annie" .....	Water.....	0 30	
Whitman, A. N. ....	Meat, &c.....	8 23	
Macdonald, Macdonald & Co .....	Wood, provisions, &c.....	12 49	
Weatherbe, John.....	Labor.....	6 00	
Bouike, T.....	Wages .....	3 60	
			4,395 27

## SCHOONER "F. E. CONROD."

Smeltzer, Capt. M.....	To pay wages of officers and crew .....	2,590 31
do .....	Disbursements.....	4 78
Borbridge, S. & H.....	Belts, pouches, &c.....	24 00
McDougall & Cook.....	Beds .....	9 60
Muir & Blackadar.....	On account charter, from 15th May to 15th Nov., 1886.....	\$1,785 18
Theakston & Angwin.....	Rope (chargeable to charter).....	14 82
		1,800 00
Pickering & Co., W. F... ..	Clothing .....	348 75
Tully, W. A. ....	Wood.....	6 30
Flowers & Son, Geo.....	Ensigns and pennants.....	11 05
Creighton & Marshall....	Stationery .....	23 17
Harrington, W. D.....	Provisions .....	235 94
McLellan, Geo.....	Meat .....	41 84
Scriven & Sons, J. J.....	Bread.....	5 20
Cunard & Co., S.....	Coal .....	6 00
Reynolds & Co., W. B... ..	Powder.....	10 20
Gordon & Keith.....	Bureau.....	5 50
Militia Department.....	Revolvers, ammunition and cutlasses.....	240 25
Smith, B. A.....	Blankets, towels, &c.....	40 20
Jones & Co., T. R.....	Silk ties.....	17 50
Theakston & Angwin....	Hardware, rope, &c.....	30 81
Meyer, Frederick.....	Vegetables.....	2 70
Egan, T. J.....	Repairing musket.....	1 30
Martin & Co., R.....	Belts .....	4 32
Robin & Co., Chas.....	Provisions, coal oil, &c.....	223 32
Macdonald, Macdonald & Co .....	do .....	105 24
Thompson & Co., A. C... ..	Stove and piping.....	10 53
Ingraham, J. W. ....	Provisions .....	53 90
McDonald, D. A.....	Beef and bricks.....	2 34
Nova Scotia Railway....	Freight .....	0 58
Paint & Sons, Peter....	Fish.....	5 00
Paquet, Jas .....	Meat .....	9 69
Steamer "Admiral" .....	Freight .....	1 20
Miller, Robt .....	Provisions .....	3 85
Leblanc, J. M.....	do .....	7 10
Hocquard, Francis .....	do .....	6 00
Canadian Express Co....	Express charges.....	3 60
	Carried forward.....	5,992 07

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con.*SCHOONER "F. CONROD"—*Concluded.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward.....	5,992 07	
Scott, John F.....	Provisions .....	3 50	
Gillis, James .....	do .....	3 50	
Smeltzer, S.....	Vegetables .....	1 80	
Whitman, C. H.....	Oil.....	1 20	
McAlpine, W. H.....	Wood, &c.....	5 20	
Myra, Thos.....	Beef .....	2 30	
Herman, Jos.....	Meat, wood, &c.....	7 08	
Hogan & Son, J.....	Lumber .....	11 37	
Steam tow boat "Hy. Hoover" .....	Towing .....	3 00	
			6,030 82

## SCHOONER "TERROR."

Quigley, Capt. Thos.....	To pay wages of officers and crew.....	2,807 47	
do .....	Disbursements.....	53 27	
Hood, A.....	Provisions, wood, oil, &c.....	67 23	
do .....	On account charter, from 19th May to 15th Nov. 1886. ....	\$1,382 03	
Beattay, Geo. V.....	Carpenter's work (chargeable to charter) ..	31 11	
Adams, Thos. S.....	Hardware .....	61 86	
		1,475 00	
Borbridge, S. & H.....	Belts, pouches, &c.....	24 00	
Beattay, Geo. V.....	Carpenter's work.....	17 00	
Knox, Jas.....	Water.....	1 25	
Donovan, T.....	Provisions .....	101 58	
McLean, John.....	Working schooner to St. John.....	35 00	
Thorne & Co., W. H.....	Powder .....	12 50	
McNichol & Son, Jas.....	Cloth suits, &c.....	92 72	
Gleeson, C.....	Iron work for guns.....	2 50	
Jones & Co., T. R.....	Silk ties.....	18 75	
Barker, Geo. A.....	Medicine chest.....	35 00	
Mills, Alf.....	Marine glass, charts, &c.....	38 45	
DeForest, Geo. S.....	Groceries .....	123 93	
Macaulay Bros & Co....	Blankets, mattresses, &c.....	172 02	
Militia Department.....	Revolvers, ammunition, &c.....	240 25	
Adams, Thos. S.....	Hardware, &c.....	136 53	
Brown, David .....	Rifle slings.....	7 80	
Youngclaus, T.....	Shirts and pants .....	114 00	
Manks & Co.....	Caps.....	18 90	
Canadian Express Co....	Freight.....	3 60	
Intercolonial Railway Wharf.....	Wharfage.....	7 50	
Bower, John.....	Provisions, &c.....	77 56	
Scott & Co., Jas.....	do .....	93 62	
Freeman, J. N.....	do .....	70 19	
McGill Bros.....	do .....	10 66	
Hogg, John K.....	Freight.....	1 25	
McGill, Jas. P.....	Iron work.....	2 25	
Harris, Robert.....	Beef .....	17 13	
Kelly, W. T.....	Coffee .....	8 00	
Wentzel, W. B.....	Provisions .....	46 12	
Mulhall, D. C.....	Coal.....	2 40	
	Carried forward .....	5,935 43	

STATEMENT of Expenditure in connection with Fish. Protection Service-*Con.*SCHOONER "TERROR"—*Concluded.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward .....	5,935 43	
Smith, Jos.....	Provisions .....	5 80	
Winters, Jos.....	do meat, &c.....	74 71	
Mulhall, E. R.....	do and coal.....	15 05	
Purney, John.....	do .....	16 13	
McGill, Jos.....	Wood .....	1 25	
Wentzel, Wm.....	Beef.....	6 40	
Bennett, Albert.....	Provisions .....	6 76	
Intercolonial Railway....	Freight.....	2 74	
Steam tug "Captain"....	Towing.....	4 00	
Grant & Co., Geo. S.....	Provisions .....	27 66	
Creighton & Marshall....	Charts .....	3 85	
Steam tow boat "Hy. Hoover" .....	Towing.....	4 00	
Hudson, Philip.....	Beef.....	2 08	
Patch, F. O. L.....	Coal.....	3 20	
Annis, Samuel.....	Wood.....	1 50	
			6,110 56.

## SCHOONER "GENERAL MIDDLETON."

McLean, Capt. Jas.....	To pay wages of officers and crew .....	3,318 46	
do .....	Disbursements.....	9 39	
Sinclair, John .....	On account charter, from 11th May to 31st Dec., 1886 .....	\$2,297 02	
Stackhouse, J. O.....	Bolts (chargeable to charter).....	2 98	
		2,300 00	
Woodworth, H .....	Caulking .....	42 50	
Beattay, George.....	Carpenter's work.....	17 00	
Knox, Jas.....	Water .....	22 40	
Thorne & Co., W. H.....	Hardware, powder, guns, &c.....	100 66	
Militia Department.....	Rifles, ammunition, &c.....	580 75	
Baskin Bros.....	Provisions .....	383 62	
Str. "Xanthus" and owners .....	Towing schooner to harbor.....	12 00	
Barker, Geo. A.....	Medicines, &c.....	14 29	
Macaulay Bros. & Co.....	Blankets .....	90 80	
Mills, Alf.....	Marine glass, &c.....	18 90	
Bradley Bros .....	Blocks for guns.....	6 60	
McNichol & Son, Jas ....	Blue cloth suits .....	120 37	
Jones & Co., T. R.....	Silk ties .....	18 75	
Stackhouse, J. O.....	Bolts, altering and fitting guns, &c.....	35 10	
Brown, David.....	Rifle slings, cartridge and waist belts.....	17 90	
Youngclaus, T.....	Shirts and pants.....	114 00	
Manks & Co .....	Caps .....	18 90	
Harding & Hatheway....	Provisions .....	61 04	
Adams, Thos. S.....	Hemp and flannel.....	3 74	
Toomey, H.....	Meat .....	32 95	
Smith & Co., A. C.....	Provisions .....	216 49	
Lewis & Son, Wm. ....	Hardware .....	2 50	
Redmond, Thos.....	Wood .....	1 25	
Quinn, John.....	Repairing, &c.....	2 68	
Batson & Co., Geo. R....	Wood .....	4 25	
Pratt, H. J .....	Powder magazine.....	6 00	
	Carried forward .....	7,573 29	

STATEMENT of Expenditure in connection with Fish Protection Service—*Con.*SCHOONER "GENERAL MIDDLETON"—*Concluded.*

To whom Paid.	Service.	Amount.	Total
		\$ cts.	\$ cts.
	Brought forward.....	7,573 29	
Nickerson, Simeon.....	Pilotage .....	7 00	
Parker, Eakins & Co.....	Provisions .....	5 90	
Ross & Co., R.....	do &c .....	3 90	
Gaskill, E.....	do .....	0 62	
Ewing, Wm.....	Beef .....	2 24	
Billings, Samuel.....	Meat .....	3 24	
O'Neil, H.....	Provisions .....	12 30	
Colter, John .....	Repairing .....	3 00	
Stickney, Geo. F.....	Nails .....	0 67	
			7,612 16

## SCHOONER "LIZZIE LINDSAY."

Pouliot, Capt. L.....	To pay wages of officers and crew .....	1,953 88
do .....	Telegrams, &c.....	0 80
Militia Department.....	Outlasses .....	33 75
Brown, David.....	Rifle slings, waist belts, &c .....	27 75
Silver, W. & C.....	Silk ties.....	17 75
Borbridge, S. & H.....	Belts, holsters, &c.....	24 00
Marine Department..	Marine glass.....	15 33
Manks & Co.....	Caps.....	23 90
Youngclaus, T.....	Pants and frocks .....	98 00
Flowers & Son, Geo.....	Ensign and pennants. ....	7 80
Martin & Co., R.....	Scabbards, frogs and belts.....	37 05
O'Brien, W. J.....	Express charges.....	6 90
Hemming, F. A.....	Board and lodging.....	4 50
Lee, Wm.....	Uniforms for officers.....	96 00
Robin & Co., Chas.....	Meat, hardware, lumber, &c.....	115 06
Collas, J. & E.....	Provisions, hardware, &c.....	218 66
Morin, Isidore.....	do rope, leather, &c.....	538 52
Lindsay, Robt.....	On account charter .....	1,250 00
Larivée, P.....	Travelling expenses, Gaspé to Quebec and return.	25 26
Belanger, Jos .....	do .....	25 26
LeBoutillier, J .....	Cork and pans.....	2 08
Eden & Son, Jos.....	Powder, &c.....	17 73
Veit, H. & S.....	Glass, &c .....	1 60
Eden, Jos.....	Discharging and shipping crew.....	15 40
Dawson & Co .....	Admiralty charts .....	9 35
Clements, John.....	Provisions .....	8 38
Pellow, Chas.....	Bread .....	1 50
LeGallais, Frs .....	Provisions .....	1 85
Steamer "Admiral" .....	Freight .....	18 22
Loisel, P. D.....	Provisions .....	22 58
Neil, H. S .....	Locks, &c.....	2 30
Beattie, Wm.....	Hardware .....	1 50
LeMessurin, A.....	Tinware, &c.....	1 40
Annett & Co., J. J.....	Postage, &c.....	1 50
Beatty, Jas.....	Hardware, &c.....	9 60
Bourdage, Louis.....	Provisions .....	229 01
Quebec Steamship Co....	Freight ..	0 25
Dugal, Capt. J.....	Ship bell .....	3 00
Foley, Wm.....	Spars .....	1 50
Boulé, Jas .....	Laundry .....	3 90
	Carried forward .....	4,872 82

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con.*SCHOONER "LIZZIE LINDSAY"—*Concluded.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward .....	4,872 82	
Levesque, J. E. ....	Provisions .....	42 94	
Holloway & Son, Thos..	Gun rammer .....	5 00	
Laurilliard, H. G. ....	Cap badges .....	3 00	
Neal, C. ....	Cartage, &c. ....	8 00	
Offen, T. W. ....	Trucks .....	1 50	
Renfrew & Co, G. R. ....	Caps and covers .....	7 50	
Vohl, L. P. ....	Telescope .....	18 00	
Dery, J. P. ....	Stationery .....	3 50	
			4,962 26

## STEAMER "LANSDOWNE."

Dakin, Capt. C. T. ....	To pay wages of officers and crew .....	5,591 96
do .....	Disbursements .....	58 68
Tufts, S. ....	Provisions .....	286 64
Godsoe & Co., W. C. ....	do .....	607 10
Donovan, T. ....	do .....	56 20
Jardine & Co. ....	do .....	118 33
Thorne & Co., W. H. ....	Hardware, powder, oil, &c. ....	215 73
Borbridge, S. & H. ....	Revolver, belts, &c. ....	32 00
Ungar, S. & M. ....	Laundry .....	18 53
Cumberland Railway & Coal Co. ....	Coal .....	493 64
Lewis & Son, Wm. ....	Hardware .....	18 74
Blizard, S. G. ....	Lumber .....	8 90
Corporation of St John.	Wharfage .....	10 00
Intercolonial Railway Wharf .....	do .....	57 50
Estey, Allwood & Co. ....	Oil, lead, &c. ....	158 67
Knox, Jas. ....	Water .....	73 00
Barker, Geo. A. ....	Oil, brushes, &c. ....	87 75
Starr Manufacturing Co.	Polishing cutlasses .....	13 00
Martin & Co, R. ....	Scabbards, belts, &c. ....	177 10
Cameron, J. R. ....	Oil .....	22 03
Black, Wm. ....	Ship stores, brushes, &c. ....	69 79
Robertson & Co., Geo. ....	Provisions .....	265 62
Sinclair, Estate of Geo. T.	Swords, scabbards, &c. ....	70 00
Puddington & Merritt. ....	Provisions .....	47 33
Canadian Express Co. ....	Express charges on rifles .....	11 85
Allan, Harris .....	Flanges, sockets, &c. ....	161 97
Barker & Sons, T. B. ....	White lead, paint, &c. ....	32 93
McLachlan & Sons, D. ....	Repairing boiler .....	1 87
Revenor, G. ....	Finemith's work. ....	80 04
Mills, Alf. ....	Log books, charts, &c. ....	4 20
Joggins Coal Mining Co.	Coal .....	463 50
Youngclaus, T. ....	Shirts, pants, &c. ....	111 50
Creighton & Marshall. ....	1 chart .....	3 50
McEvoy, P. J. ....	Provisions .....	502 38
Meagher & Doherty. ....	do .....	181 07
Theakston & Angwin. ....	Sweat cloths .....	2 70
Macdonal & Co. ....	Patent plumbago packing .....	12 23
Munro, John .....	Provisions .....	279 58
Egan, T. J. ....	Repairing muskets .....	2 60
	Carried forward .....	10,415 21

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con.*STEAMER "LANSDOWNE"—*Concluded.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward .....	10,415 21	
Acadia Coal Co.....	Coal.....	254 38	
Scott, John F.....	Provisions .....	105 01	
LeBoutillier Bros.....	do coal oil, &c .....	60 28	
The Halifax Co.....	Coal.....	258 75	
Harding & Hatheway...	Provisions .....	70 81	
Rubens, Hy.....	Iron and repairs.....	8 41	
Weeks, Jno. T.....	Provisions, kerosene, &c .....	90 94	
Brennan, Jno. P.....	do .....	34 20	
Fraser & Son, J. D. B....	Oil.....	34 38	
Noonan & Davies.....	do .....	50 63	
McAvity & Sons.....	Magnets.....	15 00	
Adams, Thos. S.....	Bunting, &c .....	16 96	
Stackhouse, J. O.....	Fitting and repairing gun carriage.....	71 25	
Vaughan & Bros.....	Rope, blocks, &c .....	85 63	
McAvinn & Knockham...	Rifle slings, waist belts, &c .....	19 50	
Lewis & Son, Wm.....	Hardware, &c.....	26 68	
Everitt, Arthur.....	Flannel, &c .....	6 63	
Bolman & Bengay.....	Sails and blocks.....	5 58	
MacDermott, D.....	Coal .....	64 00	
Hickey, M.....	Caulking vessel .....	2 00	
Tasker, S.....	do .....	4 00	
Hood, A.....	Lumber, &c.....	4 43	
Bower, John.....	Butter.....	4 25	
O'Neil, H.....	Provisions.....	36 39	
Woodley, John.....	Boat, row-locks, &c .....	76 50	
Ross & Son, R.....	Lumber, oakum, &c.....	16 11	
Gridley, jun., W. H.....	Hardware.....	5 90	
Buckley, Jas.....	Spars .....	4 50	
Brown, M.....	Laundry.....	17 76	
Hendrickson, H.....	Pilotage .....	27 95	
Ferguson, John.....	Coal .....	20 25	
Munro, Wm.....	Pilotage .....	13 00	
Johnson, John.....	Coaling .....	12 00	
Matheson, Daniel.....	Trimming coal .....	24 00	
McArthur, D.....	Water.....	10 00	
Walker, H.....	Provisions.....	3 28	
McMillan, J. & A.....	Pay lists.....	3 50	
Macaulay Bros. & Co.....	Cotton and bunting .....	5 96	
Pope, W. H.....	Tallow.....	2 00	
Macdonald, Macdonald & Co.....	Milk .....	6 00	
Davies & Sons, W. H....	Trucks, packing, &c.....	7 50	
Hill, J. B.....	Provisions .....	5 95	
Walker, Wm. H.....	do .....	4 40	
Hartlen, Geo.....	Damage to mackerel net.....	8 00	
			12,019 86

## STEAMER "ACADIA."

Field & Young.....	Cost of vessel .....	40,000 00
do .....	Coal, spare gear, provisions, &c.....	889 42
Bank of Montreal.....	In payment of draft on account disbursements in connection with steamer.....	1,000 00
do .....	Premium on drafts .....	14 25
	Carried forward.....	41,903 67

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con.*STEAMER "ACADIA"—*Continued.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward. ....	41,903 67	
Scott, Capt. P. A. ....	To pay wages of officers and crew ...	2,849 87	
do .....	Disbursements .....	11 96	
Militia Department.....	Revolvers .....	202 50	
Borbridge, S. & H. ....	Revolver belts, pouches, &c.....	24 00	
Creighton & Marshall ...	Charts, &c.....	46 64	
Townsend, Silas .....	Rope, chain, &c .....	320 17	
Christie, J. K.....	Blacksmith's work, &c.....	49 18	
Barry & Evans.....	Repairs to boiler, &c.....	960 85	
O'Brien, M.....	Caulking decks, &c.....	145 87	
Jennett, J. R.....	Glassware and crockery. ....	48 37	
Canadian Express Co....	Express charges to Halifax. ....	2 30	
Harrington, W. D. ....	Provisions, &c.....	158 56	
Gordon & Keith .....	Carpets, blankets, &c.....	284 76	
Scott & Co., Jas.....	Provisions .....	240 36	
Grant & Co., Geo. S....	do .....	394 10	
Theakston & Angwin ...	Hardware, oil, &c .....	281 68	
Cunard & Co., S .....	Coal and oil.....	329 89	
Eagar, M. T .....	Medicines.....	38 37	
Pope, W. H. ....	Meat, vegetables, &c.....	240 58	
Munro, John .....	Groceries, &c.....	178 01	
Inter. Coal Mining Co....	Coal.....	209 00	
Peppett, J. W .....	Meat, provisions, &c.....	68 47	
Scott, J. F .....	Meat and vegetables.....	61 74	
Archibald & Co.....	Coal.....	253 75	
Pickering & Co., J. F....	Uniforms.....	91 00	
National Manuf'g Co....	Flag.....	14 00	
Downey, Maurice .....	Painting, varnishing, &c.....	25 00	
Black Bros. & Co .....	Anchor.....	38 76	
Glendinning, J. R .....	Ice .....	20 00	
O'Brien, John.....	Pilotage and travelling expenses from New York to Halifax and return.....	56 00	
McElhinney, M. P .....	Ship stores.....	72 67	
Fitzpatrick, Jas.....	Services as Engineer from New York to Halifax, board and passage returning.....	88 50	
Rodman, Geo. ....	Services as Oiler do do ...	47 00	
Anderson, Billing & Co.	Silk ties.....	15 00	
Flowers & Son, Geo.....	Sails, hammocks, &c.....	31 36	
Manks & Co.....	Caps .....	17 60	
Symonds & Co.....	Bricks, clay, &c.....	23 50	
Laurillard, H. G .....	Cap badges.....	3 00	
Holloway & Son, Thos....	Blocks, hooks, &c .....	2 70	
Boyd & Co., Geo. W.....	Laundry .....	14 25	
Martin & Co., R.....	Scabbards, belts, &c.....	43 10	
Butler, J. E.....	Lumber.....	19 01	
Vaughn, Wallace.....	Meat.....	4 48	
Leo, Egmont .....	Labor .....	1 20	
Neal, Chas .....	Cartage, wood, &c .....	8 45	
Ead, Thos.....	Trimming coal, &c .....	18 75	
Powell, H. H .....	Pilotage .....	10 00	
Croy, Jas .....	Provisions, &c.....	27 24	
Smith, J. & H.....	Water .....	2 20	
Davies & Son, W. H.....	Hardware, castings, &c.....	27 87	
Garvin, Alex. A.....	Spars.....	8 25	
Dawson, Gordon & Co ..	Water waste .....	10 50	
Carson, J. & A.....	Lumber .....	5 39	
McKenzie, Peter A.....	Trimming coal .....	26 13	
	Carried foward.....	50,077 56	

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con.*STEAMER "ACADIA"—*Concluded.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward.....	50,077 56	
McArthur, Donald .....	Water .....	20 00	
English, J. G. ....	Coal .....	52 25	
Myers, Wm. ....	Ring for compass.....	1 50	
Smith, A. C. ....	Passages to Halifax, 3 seamen.....	12 00	
Steam water boat "Annie"	Water .....	7 50	
Marine blacksmith shop.	Iron work.....	9 23	
Albrow, Jas .....	Labor .....	5 00	
Ross, Alex. ....	do .....	2 00	
Scriven & Son, J. J. ....	Bread.....	13 72	
Dowd, T. ....	Seaman's wages.....	4 20	
Lovell, T. ....	do .....	4 80	
O'Brien, Maria.....	Washing .....	11 10	
Bennett, Edward.....	Cork fenders .....	10 00	
Tug "Merrimac" .....	Towing .....	3 33	
Armstrong, M. ....	Legal expenses.....	10 80	
Allen & Co., T. C. ....	Pilotage .....	2 50	
Musgrave, R. ....	Iron work.....	8 50	
Hogan & Sons, J. ....	Lumber .....	11 49	
McLellan, Geo. ....	Meat.....	8 22	
Mooney, D. M. ....	Labor .....	50 00	
McDonald, Ferguson ....	do .....	38 75	
Christopher, A. ....	Seaman's wages.....	2 40	
Christopher, J. ....	do .....	2 40	
McNeil, Lauchlin .....	do .....	3 33	
Macdonald & Co. ....	Brass work, plumbing, &c.....	266 47	
Smith & Co., Geo. E. ....	Hardware .....	201 75	
Jennett, J. R. ....	do .....	22 23	
McFatrige, Wm. ....	Hemp hawser.....	10 00	
			50,873 03

## STEAMER "LA CANADIENNE."

Gregory, J. U. ....	To pay wages of officers and crew .....	10,346 47
do .....	do outfit and repairs .....	289 12
do .....	Advance on account repairs.....	522 73
Beaudet & Chinic. ....	Hardware, powder, &c.....	728 16
Derouin, F. ....	Blocks .....	45 00
Hamel et Frères, J. ....	Oil cloth, blankets, &c.....	131 41
Wakeham, Wm. ....	Salary, from July, 1885 to December, 1886 .....	1,800 00
do .....	Disbursements .....	206 03
Chanteloup, E. ....	Buttons for uniforms .....	32 00
Clint, J. H. ....	Lumber.....	111 44
Holiwell, C. E. ....	Stationery .....	11 60
O'Neill & Judd.....	Towels .....	6 00
Parent, T. ....	Boat bailers .....	3 25
Blakiston, R. ....	Sails, weatherguards, &c.....	489 20
Simard, O. ....	Tinware, &c.....	126 10
Davis, Jno .....	Provisions .....	1,039 07
Morin, Isidore.....	Bread .....	393 83
Eden & Sons, Jos. ....	Beef, &c.....	162 36
Matte, T. ....	Oiled clothing.....	72 00
Marois, Ls. ....	Vegetables.....	511 02
Turcotte, A. J. ....	Provisions, oil, &c.....	1,875 58
	Carried forward.....	18,902 37

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con.*STEAMER "LA CANADIENNE"—*Continued.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward .....	18,902 37	
Renfrew & Co., G. R.....	Caps.....	46 30	
Rouillard, P.....	Washing, scrubbing, &c.....	96 00	
Many, E.....	Uniform and board.....	60 00	
Belanger, J. B.....	Uniform.....	20 00	
Belanger, S.....	do.....	25 00	
Dickey, M.....	Beef, milk, &c.....	122 45	
Vezina, C.....	Labor.....	10 00	
Vezina, G.....	do.....	5 20	
Cloutier, X.....	do.....	6 00	
Cloutier, P.....	do.....	4 40	
Dufour, U.....	do.....	5 20	
Bank of Montreal.....	Moorage at wharf.....	100 00	
Marmen, Jas.....	Cartage.....	39 30	
Phillips, Geo. T.....	Steam fitting, &c.....	378 61	
Gunn, Francis.....	Ship stores, canvas, &c.....	680 30	
Black, Hy.....	Extension plates, castings, &c.....	35 88	
Langlois, Damase.....	Milk.....	54 60	
Turcot, Narcisse.....	Rockets.....	15 50	
Lafamme, Frs.....	Bread.....	163 56	
Charrier, Auguste.....	Watchman.....	60 00	
Richardson, O. L.....	Leather and lantern.....	22 88	
Renaud & Co., J. B.....	Fish and flour.....	83 10	
Quebec Steamship Co....	Freight.....	21 64	
Descroiselles, Frs.....	Watchman.....	14 40	
Bisset Bros.....	Repairs, &c.....	110 69	
Webster & Co., G. M.....	Coal.....	125 00	
Quebec Harbor Commis- sioners.....	Wintering steamer.....	42 93	
Plamondon et Frères, P.	Fish.....	94 18	
Dunn, M.....	Soap and potash.....	107 95	
Joseph, J., jun.....	Paint brushes.....	13 20	
Leonard, B.....	Painting.....	187 37	
Borbridge, A. & H.....	Revolver belts, holsters, &c.....	32 00	
Canadian Express Co....	Freight on rifles.....	7 65	
Militia Department.....	Rifles, ammunition, &c.....	578 00	
Shea & Bro., Jas.....	Meat, butter, &c.....	418 20	
Drolet, F. X.....	Pump.....	250 00	
Guerard, L.....	Bedding.....	100 75	
Vallerand, A. E.....	Hardware, &c.....	109 90	
Delaney, Thos.....	Meat.....	451 55	
Côté, J. Bte.....	Bacon, lard, &c.....	186 47	
Begin, F.....	Cream.....	6 60	
Fitzhenry, M.....	Making towels and washing.....	6 00	
Smith, Jas.....	Meat.....	54 20	
Lee, Wm.....	Clothing.....	390 00	
Noonan & Davies.....	Freight on coal.....	16 80	
Dawson & Co.....	Log books, &c.....	22 50	
Dutil, J. B.....	Oars.....	50 00	
Intercolonial Coal and Mining Co.....	Coal.....	308 00	
McCallum, Archibald....	Storage of chronometer and code of signals.....	12 00	
Hethrington, T.....	Biscuits.....	44 83	
Annett, G. T.....	Freight on coal.....	154 50	
Giroux et Frère, E.....	Medicines, &c.....	83 49	
Gunn, Frs.....	Coal.....	216 00	
Audet & Robitaille.....	Flags, sheaves, &c.....	64 30	
	Carried forward .....	25,217 75	

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con*STEAMER "LA CANADIENNE"—*Concluded.*

To whom Paid.	Service.	Amount.	Total.
		\$ cts.	\$ cts.
	Brought forward .....	25,217 75	
Veit, H. & S .....	Hardware, &c .....	52 50	
LeBoutillier & Co., John .....	Eggs, butter, &c .....	69 40	
Collas, J. & E .....	Hardware .....	242 01	
Queen's Wharf .....	Use of wharf and stores .....	100 00	
Renfrew & Co., G. R. ....	Caps and covers .....	43 60	
Coffin, M. ....	Washing and mending .....	113 39	
Baker, M. ....	Provisions .....	91 95	
Robin & Co., C. ....	Iron work .....	2 50	
Annett, Jno .....	Postages and telegrams .....	13 80	
Sinnette, M. A. ....	Washing and mending .....	4 50	
Carter, A. T. ....	Freight .....	3 40	
Bechervaise, B. ....	Washing .....	49 57	
LeMessurier, A. ....	Tinsmith .....	6 40	
Davidson D. ....	Mast head, binnacle compass .....	59 73	
Dobbin, J. F. ....	Repairing clocks .....	7 50	
Shaw & Co., S. J. ....	Hardware .....	4 20	
Baile, Jno .....	Moorage .....	9 00	
	Total .....		26,091 20

## GENERAL ACCOUNT.

Capt. Scott, P. A. ....	Disbursements and travelling expenses .....	434 66	
Wright, W. G. ....	Blue serge for uniforms .....	210 00	
Guildford, R. A. ....	Travelling expenses inspecting vessels .....	70 50	
G. N. W. Telegraph Co. ....	Telegrams from May to December, 1886 .....	500 83	
McElhinney Capt. M. P. ....	Disbursements .....	175 94	
National Manufact'g Co. ....	Flags, signals, &c .....	353 67	
Winchester Repeating Arms Co. ....	Carbines and cartridge .....	600 25	
Militia Department .....	Rifles, friction tubes, &c .....	595 90	
W. U. Telegraph Co. ....	Telegrams from June to October, 1886 .....	31 53	
Tilton, Jos. A. ....	Clerk to Capt. P. A. Scott, stamps, &c .....	190 31	
Intercolonial Express Co. ....	Express charges .....	14 40	
American do ...	do .....	29 25	
Intercolonial Railway ...	Railway fare, freight and cartage .....	17 70	
Taylor, John .....	Sword belt .....	10 00	
Sawyer, M. ....	Wages, discharged sick .....	18 00	
Gore, C. M. ....	Guarding boats and seines seized by "General Middleton" .....	89 00	
	Printing, advertising, stationery and sundry other disbursements .....	619 02	
	Total .....		3,962 96

STATEMENT of Expenditure in connection with Fish. Protection Service—*Con*

Recapitulation.	Amount.	Total.
	\$ cts.	\$ cts.
Schooner "L. Houlett" .....	8,054 06	
do "Critic" .....	4,395 27	
do "F. E. Conrod" .....	6,030 82	
do "Terror" .....	6,110 56	
do "General Middleton" .....	7,612 16	
do "Lizzie Lindsay" .....	4,962 26	
Steamer "Lansdowne" .....	12,019 86	
do "Acadia," including purchase.....	50,873 03	
do "La Canadienne" .....	26,091 20	
General Account.....	3,962 96	130,112 18

## APPENDIX D.

## REPORT OF CAPTAIN P. A. SCOTT, R.N., IN COMMAND OF THE FISHERIES PROTECTION SERVICE, FOR THE YEAR 1886.

The Honorable GEORGE E. FOSTER,  
Minister of Marine and Fisheries.

SIR,—The accompanying report of the proceedings of the Government Steamers "Lansdowne" and "Acadia," under my command, together with the logs of these steamers, while employed protecting the Fisheries during the past season, will, I trust, in some measure convey to you the nature of the duty these vessels were called upon to perform.

In the early spring very little fishing was done by the United States' vessels upon our coast, but we found a large fleet at anchor on our borders wishing to buy bait for the prosecution of the bank fishery. Large numbers might be seen off Eastport, Maine, and also off St. Andrews, N.B., trying to purchase bait from our fishermen, and although the general cry was "we want nothing of Canada," they sought every opportunity of evading the Convention of 1818.

Their practice has been, for years, to engage numbers of our fishermen to sail under the United States flag and fish upon shares, and to take them on board by calling for them at our ports on their way to the fishing grounds. This practice was not allowed during the past season, and they had to go to Gloucester or other ports for the purpose of joining their vessels.

The masters of the United States fishing vessels, when boarded, handed to the boarding officer their licenses to "touch and trade," which, they were informed when leaving United States ports, would enable them to trade in Canadian waters. They feigned great surprise when they discovered that this stratagem would not work. They were accordingly treated as fishermen, and only permitted to enter our ports for one or other of the purposes specified in the Convention.

It was my duty to impress upon all the commanders of the cruisers, that in the performance of their duty they should act with the greatest courtesy, and I am not aware that these instructions were disregarded in any one instance. The officers in charge of our cruisers were called upon to act in a new capacity, and I therefore think that some allowance should be made for any shortcomings that may have occurred, seeing that one and all were most anxious in the performance of the very delicate duty with which they were entrusted.

It was frequently reported, during the season, that United States fishing vessels were fishing within the three-mile limit, and in the immediate vicinity of our cruisers. While I have little doubt that fishing was so carried on by these vessels, whenever the opportunity offered, I am convinced, from investigation, that it only took place when the cruisers were out of sight,

It has been stated that the Canadian authorities refused to permit the United States' fishermen to buy sufficient provisions to carry them home. I am not aware that any were refused this privilege, but I do know that the Collector of Customs at Sydney, C.B., did grant permission, and I also gave leave, whenever requested, to others to buy what they required, with the understanding that they were to return home immediately.

Our fishing vessels resemble those of the United States so closely that even persons who are familiar with the latter find a difficulty in deciding the nationality when no colors are shown. The Canadian fishermen could save much trouble and annoyance if they would show their colors when approached by a cruiser.

In the years 1870 and 1871 the United States Government sent ships of war to look after their interests, and I am happy to say that this practice was very beneficial, as their presence alone was sufficient to ensure order by United States fishermen. During the past season three United States ships of war were in the Gulf of St. Lawrence, but for a short period only, and when boarding their own vessels instructed them to obey the laws of Canada.

With respect to the cruisers employed during the past season, I have to state that in most instances they were inferior to the United States fishing vessels, both in point of size and sailing qualities; this I trust may be remedied the coming season.

When the mackerel season begins in the Gulf of St. Lawrence (usually early in June), the horizon is generally crowded with United States fishing vessels, which bring two seine boats with them for the prosecution of their business. A man at the masthead scans the horizon, and on observing a school, the seine boats are manned, and the huge purse seines are let down, so as to enclose the fish. Not one escapes. The catch at times is enormous and highly destructive, and I fear will affect in the future the value of our mackerel fisheries most seriously. It will thus be seen how exhausting this mode of fishing must be when compared with the old method of hook and line.

I have the honor to be, Sir,

Your obedient servant,

P. A. SCOTT.

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#### EXTRACT FROM THE LOG OF THE GOVERNMENT STEAMERS "LANSDOWNE" AND "ACADIA."

Early in March I proceeded to St. John, N.B., to fit out the Government steamer "Lansdowne" for that service. No time was lost in equipping the ship generally as a cruiser.

On 20th March we proceeded to sea and ran for Grand Manan anchoring inside Gannet Rock where we procured one brass gun, and at 5 p.m. anchored in Seal Cove for the night. The weather being stormy we remained there until the 22nd.

In the afternoon of that day we ran into Flagg's Cove, but finding no fishermen proceeded to St. John. Bad weather continuing, we remained in port for the night.

Weather still continuing stormy remained until the 25th at daylight, when we proceeded to Grand Passage, Briar Island, and after communicating with the Collector at that port proceeded to Yarmouth.

After a short stay continued our voyage to Shag Harbor where we remained for the night, sending the boat away for information.

26th March.—We weighed at daylight and proceeded to Pubnico. Sent boat away to board an American fisherman, and ordered her to sea. At 1 p.m. we steamed up to Argyle, and after boarding an American fishermen we ran for Shag Harbor for the night.

27th March.—At daylight proceeded to sea, rounded Cape Sable and anchored in Barrington Passage. Finding no fishermen here we proceeded to Shelburne and anchored inside Sand Point. Found one American fisherman in for shelter.

29th March.—At daylight weighed and proceeded to sea. Ran into Barrington Bay and finding no fishermen there, rounded Cape Sable and anchored in Pubnico Harbor, finding four American fishermen there, ordered them to proceed to sea, but the weather becoming bad they were allowed to remain.

30th March to 1st April.—Strong winds and thick fogs; remained at anchor waiting for weather to clear.

2nd April.—Weather clearing, proceeded to St. John. Captain Scott going to Halifax (by rail) on duty.

The "Lansdowne" was employed until the 15th April, by the Marine Department, attending to buoy service.

15th April.—At 3 p.m. cast off and proceeded to sea, anchoring in Beaver Harbor for the night. Boat away boarding fishermen.

16th April.—At 8 a.m. proceeded to sea and passed through Bliss' Harbor, L'Etang, looking for fishermen. At noon, anchored off Machias Seal Island and landed some supplies for the Lighthouse. Looked into Seal Cove, Grand Manan, in the afternoon. Finding no fishermen here, proceeded to Flagg's Cove, by the western passage, anchoring under Big Duck Island for the night.

17th April.—Landed a fog-whistle here, and at 3 p.m. weighed and proceeded to sea, returning to an anchor in Flagg's Cove for the night.

18th April.—At daylight weighed and proceeded to Beaver Harbor, boarding several vessels.

19th April.—At dawn weighed and proceeded to sea and anchored in Yarmouth Harbor in the afternoon, remaining there until the 21st.

22nd April.—Proceeded to sea, running through the Schooner Passage. Anchored at Pubnico. Finding no Americans in port, proceeded to Shelburne to inspect the schooner "Terror," about to be employed as a cruiser.

23rd April.—In the forenoon weighed and proceeded to Shag Harbor, remaining there for the night.

24th April.—At daylight weighed and passed through the Schooner Passage, anchoring in Yarmouth Roads.

26th April.—At noon proceeded to sea, passing through Petit Passage and anchored in Flagg's Cove, Grand Manan, for the night.

27th April.—At daybreak proceeded to sea and anchored in Beaver Harbor. Sent the boats away boarding.

28th April.—At 5 a.m. weighed and proceeded to sea, anchoring in Welch Pool. Campo Bello, at 7 a.m. Held a conference with the Collector of Customs and the principal merchants of that place. Weighed at 4.30 p.m. and proceeded to St. Andrew's, anchoring under Navy Island. Sent the boats away boarding American fishermen and ordering them off the coast.

29th April.—Shifted our anchorage to the south channel off St. Andrew's.

30th April.—At daylight weighed and ran through La Tête Passage and at 8 a.m. returned to the anchorage off St. Andrew's. At 1.30 p.m. weighed and proceeded to Deer Island to confer with the Collector of Customs of West Isles, and returned at 6 p.m. to St. Andrew's.

1st May.—At 9 a.m. weighed and proceeded to St. John, passing through La Tête Passage, and at noon made fast to the railway wharf, when a gang of men were employed caulking the upper deck.

6th May.—At 8 p.m. got the steam up and proceeded to sea, and anchored off Digby at midnight. Sent boats away looking for an American schooner which had been reported as buying bait; not finding her that night they returned.

7th May.—At 4.30 a.m. a schooner being seen in the distance the cutter was sent to board her. She proved to be the "D. J. Adams," of Gloucester, U. S. As the master evaded all questions put to him by the boarding officer, it was not until 10 a.m. that it was discovered that the charge could be proved against him. He was then ordered to anchor near the "Lansdowne." At 4 p.m. the undersigned boarded the "D. J. Adams" and notified the captain that his vessel was seized for violating the Dominion fishery laws, and a guard was then placed on board her.

8th May.—Fearing that the seized schooner would be unsafe in Digby, we took her in tow at 6 a.m. and proceeded to St. John, making fast to the railway wharf at 10.30 that forenoon.

9th May.—Having received from Ottawa orders to return to Digby with the schooner, we left at 11 a.m. for that port, anchoring off the Racquette at 4 p.m.

10th May.—As the Collector of Customs at Digby had been ordered to receive the "D. J. Adams" in his charge, she was handed over to him at 5 p.m.

12th May.—Captain Scott proceeded to Halifax on duty.

14th May.—At 4 p.m. Captain Scott returned.

15th May.—At 4 a.m. proceeded to sea, examining the coast both to the northward and southward of the Gut. Boarded several vessels and then ran for St. John, N.B., and lashed to the wharf at 1.30 p.m.

16th May.—The captain inspected the ship throughout, also the crew at divisions.

17th May.—At 11 a.m. proceeded to sea, cruising along the shore. At 5 p.m. anchored in Yarmouth Roads.

18th May.—Sent a boat to examine some schooners. At 5.30 a.m. weighed and

proceeded to sea, passing through the Schooner Passage, and anchored in Pubnico. Ordered two American fishermen to sea. At 10.30 weighed and proceeded to Shelburne.

19th May.—Sent a party to take charge of the "Terror," as a cruiser.

20th May.—At daylight took the "Terror" in tow and proceeded on our way to St. John. At 7.30 p.m. anchored in St. Mary's Bay for the night.

21st May.—The weather being foggy we remained at anchor until 9.45 a.m., when we proceeded through Petit Passage and moored to the Government wharf in St. John at 5 p.m.

22nd to 25th May.—The "Lansdowne" was employed in buoy service.

26th May.—At 10.30 a.m. weighed and proceeded to sea, cruising along shore, and anchored in Beaver Harbour at 3.30 p.m.

27th May.—At 6.30 a.m. weighed and proceeded to Flagg's Cove.

28th May.—Thick fog and rainy weather.

29th May.—Weather continuing thick, weighed and proceeded to St. John and anchored off Sand Point.

30th May.—Captain Dakin inspected ship and ship's crew at Divisions.

31st May.—Foggy and rainy weather. At 6 a.m. weighed and proceeded to Digby, anchoring there at noon.

1st June.—At daylight weighed and proceeded to sea. Boarded several schooners. At 10 a.m. anchored off Westport. At 10.15 weighed and proceeded to Yarmouth and anchored in Yarmouth Roads that afternoon.

2nd June.—At 5 a.m. weighed and proceeded through Schooner Passage and anchored in Pubnico. Boat away boarding schooners.

3rd June.—Foggy and rainy.

4th June.—At 9 a.m. weighed and proceeded to Yarmouth. At 3 p.m. we weighed and proceeded through the Grand Passage and ran for Le Preaux anchoring there in 20 fathoms.

5th June.—At daylight picked up the Automatic Buoy and proceeded to St. John.

6th to 27th June.—The "Lansdowne" was engaged in buoy service.

28th June.—At 4 p.m. weighed and proceeded to Flagg's Cove and anchored there for the night.

29th June.—At 8.30 a.m. weighed and proceeded to Pubnico, anchoring there for the night.

30th June.—At daylight weighed and stood to the southward. At 6.20 rounded Cape Sable. At 6 p.m. passed Sambro Light. At midnight passed Beaver Harbour Light.

1st July.—At 4 a.m. passed Country Harbour Light. At 8.30 rounded Cape Canso. At noon anchored in Habitant Bay.

2nd July.—At 4 a.m. weighed and proceeded to the northward. At noon rounded East Point, P.E.I. At 7 p.m. anchored in 14 fathoms.

3rd July.—At 7 a.m. weighed and proceeded to cruise. Boarded a few vessels, and at noon sighted a fleet of ten sails outside the limits. At 8 p.m. anchored off Malpeque for the night.

4th July.—Rainy weather. Still anchored off Malpeque.

5th July.—At 5 a.m. weighed and stood to the eastward; observed several sails off shore. At 11 spoke the Government cruiser "Critic." At 8 p.m. anchored off Grand Rustico in 11 fathoms.

6th July.—At 5.30 a.m. weighed and stood into 8 fathoms of water. Sent the boat into the harbour to board vessels. When boat returned we anchored off Richmond. Blowing hard from the south-west.

7th July.—At daylight sent a boat to board schooners in Richmond Harbour. Found the Government cruisers "Critic" and "Houlett" in port. At 7.40 p.m. anchored off Grand Rustico, in 14 fathoms, for the night.

8th July.—Light southerly winds with fog. At 5 a.m. weighed and proceeded to Souris. At noon rounded East Point. At 2 p.m. anchored off Souris. Captain

Scott returned on Board. At 5 p.m. weighed and rounded East Point, standing to the westward. At 8 p.m. took the cruiser "Conrad" in tow, and at 10 cast off and anchored for the night.

9th July.—At daylight weighed and proceeded to sea. At 5 a.m. spoke to cruiser "Houlett," the captain coming on board. At 5:30 parted company. At noon spoke to cruiser "Critic." Captain came on board. At 12:30 stood to the northward. At 7 p.m. passed North Point, standing for Bay Chaleur.

10th July.—At 2 a.m. anchored off Escuminac. At 5 weighed and stood to the eastward, running along shore. At 7 p.m. took a pilot and anchored off Point du Chesne railway wharf, embarking the Hon. Mr. Foster, Minister of Marine and Fisheries.

11th July.—Ran along shore. At 3 p.m. passed Pictou Island, and at 4:30 anchored in Pictou Harbour.

12th July.—Hauled into Acadia coal wharf, and took in  $101\frac{3}{4}$  tons of coal.

13th July.—Took pilot on board and proceeded up the East River to the Albion coal wharf, and took in 115 tons of coal. At 7 p.m. cast off and anchored off the town.

24th July.—At noon proceeded to sea. Sent boat ashore at Souris for letters. At 8.40 p.m. rounded East Cape.

15th July.—Running along the land. At 2.30 p.m. Miscou bore W. N. W. At 7.30 p.m. anchored in Paspebiac. Found the cruiser "Conrad" here.

16th July.—Rainy weather, weighed and stood for Bathurst, landing Cape Scott there in the evening.

17th July.—At 6 a.m. the "Lansdowne," under the orders of Captain Dakin steamed down the bay and boarded several schooners, anchoring under the north shore for the night.

18th July.—Proceeded westward anchoring off Paspebiac.

19th July.—Ship's company at drill.

20th July.—Ship's company at drill, and employed cleaning boilers.

21st July.—At 5 a.m. weighed and stood down the bay. Spoke the schooner "Conrad" off Miscou. No Americans in sight. Anchored there for the night.

22nd July.—Weighed and stood up the bay. Anchored off Paspebiac.

23rd July.—Weighed and stood to the eastward. Cruising and anchoring off Miscou for the night.

24th July.—At daylight weighed and stood up the bay, and anchored in Port Daniel for the night.

25th July.—Lying in Port Daniel, the Government cruiser "Lizzie Lindsay" in company.

26th July.—Foggy and rainy. At 7.30 weighed and stood to the eastward. Spoke the Government cruiser "Conrad." At 4 p.m. anchored off Paspebiac.

27th July.—At 5 a.m. weighed and proceeded to Bathurst. Embarked Captain Scott and proceeded to Paspebiac, anchoring there for the night.

28th July.—Captain Scott inspected the cruiser "Lizzie Lindsay." At noon weighed and proceeded to the eastward. Spoke the Government cruiser "Conrad." At 8 p.m. passed Miscou and stood to the southward.

29th July.—At 2 a.m. anchored in Miramichi Bay. At daylight weighed and stood in shore examining fishermen. At 11.30 passed the North Point, P.E.I. At 2.30 p.m. spoke the Government cruiser "Houlett."

30th July.—At 3.30 a.m. rounded the East Point, P.E.I., and anchored off Souris. At 9.30 weighed and stood across George's Bay, anchoring under Cape George.

31st July.—Weighed and proceeded to Pictou.

1st August.—At 8 a.m., after taking in provisions and water proceeded to sea, standing up Northumberland Straits. Observed several schools of mackerel. Anchored off Bedeque for the night.

2nd August.—At daylight weighed and stood to the northward. Observed several American fishermen in the offing anchored off Miminegash. Sent a boat on shore for information. P.M., stood to the westward and anchored off Escuminac.

3rd August.—At daylight weighed and stood across the bay. Boarded several schooners. At 6 a.m. spoke to Government cruiser, "Lizzie Lindsay." At 1 p.m. rounded Miscou, and at 5 p.m. anchored off Paspebiac.

4th August.—At 9 a.m. boarded the American schooner, "Caroline Vault," of Booth Bay, Me., and ordered her to sea.

5th August.—Foggy and rainy weather. The Government cruiser, "Critic" arrived, and Captain McLaren received his orders from Captain Scott. At 7 a.m. weighed and stood for Port Daniel and anchored there.

6th August.—At 6 a.m. weighed and stood to the southward. At noon spoke the "Critic." At 1.30 p.m. anchored in Paspebiac. Captain Smeltzer, of the "Conrad," came on board.

7th August.—At 8 a.m. weighed and stood down the bay. At 11.30 passed Miscou, observing a man-of-war in the distance, closed with her, stopped the engines, and an officer of the U. S. ship, "Yantic" came on board. At 2.30, Captain Scott returned that officer's call. At 2.45 p.m. stood to the southward and anchored in Miramichi Bay.

8th August.—The Government cruisers, "Critic" and "Lizzie Lindsay," arrived. The Captains waited upon Captain Scott for orders, and at 3 p.m. they proceeded to sea.

9th. August.—At daylight weighed and proceeded to sea, standing to the southward. Passed a large fleet of seiners off shore. At noon anchored off Shediac. Captain Scott landed and proceeded to St. John on duty. At 4 p.m. the ship, under the orders of Captain Dakin, proceeded to Cape Escuminac and anchored off shore.

10th August.—At daylight weighed and proceeded to Bay Chaleurs. Observed a large fleet of seiners off shore. At noon, off Miscou, exchanged signals with the Government cruiser "Conrad." At 4 p.m. anchored in Paspebiac.

11th August.—Thick fog and rainy. At noon weather clearing weighed and proceeded to Port Daniel.

12th August.—Foggy and rainy. At 9 a.m. weighed and stood across the bay and anchored off Miscou. At 2 p.m. weighed and cruised about the bay, anchoring in Port Daniel at 7 p.m.

13th August.—Weighed and cruised about the bay, and at 1 p.m. anchored in Paspebiac.

14th August.—Strong breezes and heavy rain. At 7 a.m. weighed and proceeded down the bay and anchored in Port Daniel.

15th August.—Strong breezes and fine. Captain Dakin inspected the ship and ship's company.

## JOURNAL OF THE "ACADIA."

16th August.—The steamship "Acadia" having arrived Captain Scott took charge.

17th August.—The "Acadia" was brought to the Marine and Fisheries wharf. Employed shipping crew and getting vessel ready for sea.

18th to 21st August.—Preparing for sea.

23rd to 28th August.—Engineers, boiler makers and caulkers engaged making repairs.

30th and 31st.—Engineers and others still repairing.

1st, 2nd and 3rd September.—Engineers, boiler makers and others still engaged repairing.

4th September.—At 8 p.m. engineer reported all ready.

6th September.—At 6.40 a.m. cast off and proceeded to the coal wharf and took in 45 tons of hard coal. At 7 p.m. cast off and anchored for the night.

7th September.—At 6 a.m. weighed and proceeded to sea, standing to the eastward. At 5 p.m. thick fog setting down stood off and on the land. At 10.45 p.m. made Cranberry Light. At 11.30 rounded the Grimes,

8th September.—At 2 a.m. passed Eddy Point, Straits of Canso, and anchored in 11 fathoms. At 11 weighed and stood through the Gut.

At noon spoke the American steamer "Novelty," and at 8 p.m. anchored off Souris. Captain Lorway of the "Houlett" came on board.

9th September.—Weighed and proceeded up Northumberland Straits. At 6 p.m. anchored off Tryon.

10th September.—Weighed and stood to the northward. At 11 hove to off Miminegash. Sent a boat ashore for information. At 2.20 p.m. anchored inside North Cape Light. Received a 24 feet gig and other stores from the "Lansdowne."

11th September.—At 6 a.m. weighed and proceeded to the northward. Afternoon, thick fog. At 3 p.m. weather clearing stood up the Bay Chaleurs, and at 5 p.m. anchored in Paspebiac Roads. At 7.30 Captains Pouliot, of the "Lindsay," and Smeltzer, of the "Conrod," waited upon Captain Scott.

12th September.—At 9.30 a.m. the captain inspected ship and ship's company.

13th September.—At 4.30 p.m. weighed and proceeded to sea. At 6.50 rounded Miscou.

14th September.—At 2 a.m. anchored off Escuminac. At 8 a.m. weighed and proceeded to the southward.

15th September.—The undersigned left for Halifax on duty, landing at Pictou.

16th to 20th September.—Captain Scott still in Halifax on duty.

21st September.—Raining and blowing hard. Captain Scott returned.

22nd September.—Blowing hard from the westward. At 3 p.m. weighed and proceeded to sea. At 6 a.m. anchored below Georgetown.

23rd September.—Boat away boarding. At 9 weighed and proceeded to sea. At 11 anchored off Souris. Cruisers "Houlett" and "Conrad" in port. Several American fishermen in harbor for shelter. At 3.30 p.m. weighed and ran for Cape George, and anchored in the bay for the night.

24th September.—At 9 a.m. weighed and proceeded to sea. At noon passed East Point; 12.30 p.m. bore up for Port Hood, and at 4 p.m. anchored there.

25th September.—Strong southerly gales and heavy rain. At 2 p.m. boarded two Americans who were in for shelter.

26th September.—At 9.30 a.m. captain inspected ship and ship's company. At 2 p.m. boat away boarding fishermen.

27th September.—Blowing hard from N.E. Noon sent cutter for fresh water.

28th September.—At 6 a.m. boat ashore for water. At 9.15 weighed and proceeded to sea. At 1 p.m. anchored in Souris Roads, finding the cruiser "Houlett" in port. At 2.40 p.m. weighed and proceeded to sea. At 6 p.m. anchored in Port Hood. Found the "Conrod" here, Captain Smeltzer coming on board the "Acadia" for orders.

29th September.—Strong southerly breezes and rain.

30th September.—The weather improving, at 5 a.m. weighed and proceeded to Straits of Canso. At 9 a.m. anchored at Port Hawkesbury. P.M. employed swinging the ship to find the error of the compasses.

1st October.—Heavy rain in passing squalls.

2nd October.—At 7 a.m. weighed and proceeded to the northward. At noon rounded Cape George in a heavy sea. At 2 p.m. anchored in the Pictou Harbor being short of coal.

3rd October.—At 9.30 a.m. inspected ship and ship's company.

4th and 5th October.—Still waiting for coal.

6th October.—At 4 p.m. a coal lighter came alongside.

7th October.—Coaling ship.

8th October.—At 9.30 a.m. finished coaling, having received 104½ tons of Drummond coal. At 11 a.m. weighed and proceeded to sea. At 6 p.m. passed Margaree Island Light, rounding Cape North, C.B., at midnight.

9th October.—Anchored in Aspy at 2 a.m. At 8 weighed and rounded Cape North. Found no fishermen in the Bay. At 11 came to an anchor in Aspy Bay.

Boarded several American fishermen in for shelter. At 2.30 p.m. parted the small bower chain. Proceeded to Ingonish and anchored there.

10th October.—At 7.15 a.m. weighed and proceeded to sea. Observed 14 sail of Americans coming out of South Ingonish. At 9.30 a.m. anchored in South Ingonish Roads. Captain inspected ship and ship's company. Blowing hard from the N. W.

11th October.—Weighed and proceeded to Aspy Bay. At 9.20 bore up for Sydney. Observed several fishermen outside the limits. At 1.30 p.m. came to an anchor off North Sydney. At 9.30 p.m. the "Houlett" arrived.

12th October.—At 6.30 a.m. Captain Lorway and Smeltzer presented themselves. At 10 a.m. boat away boarding fishermen. The cruisers "Houlett" and "Conrad" sailed. At 7 p.m. observed several fishermen returning to port for shelter.

13th October.—Boat away boarding fishermen. At noon passing showers and heavy squalls. At 4 p.m. weighed and shifted up the harbor for shelter.

14th October.—At 8 a.m. Captain Scott held an investigation into certain charges brought against Capt. Solomon Jacobs of the American schooner "Mollie Adams" of Gloucester, for fishing inside the limits. The charges were not proved.

15th October.—At 6 a.m. weighed and proceeded to sea. At 8.30 anchored in South Ingonish. Boarded one American schooner. At 9.30 weighed and stood to the northward. At noon anchored in Aspy Bay. Captain McLaren of the Government schooner "Critic" came on board for orders. At 1 p.m. weighed and proceeded for St. Ann's Bay anchoring there at 6 p.m. Wind from S. W. and blowing hard.

16th October.—Blowing hard in squalls from southward. At 10.30 a.m. weighed and proceeded to sea. At 1 p.m. anchored off North Sydney. Found the cruisers "Conrad" and "Houlett" in port. Midnight snowing at times.

17th October.—A.M. passing squalls with snow. At 9.30 a.m. Captain inspected ship and ship's company.

18th October.—At 9 a.m. Captain and First Officer attended the Magistrate's Court for the punishment of three seamen who had been absent without leave.

19th October.—Rainy and squally weather. Boat away boarding fishermen. At 11 weighed and proceeded to sea. At 3 p.m. steamed up to the coal wharf at Cow Bay.

20th October.—At 7 a.m. ship commenced coaling.

21st October.—At 11 a.m. having received 135 tons of coal cast off and proceeded to sea cruising along shore. At 3 p.m. anchored off North Sydney.

22nd October.—At 6.30 a.m. Captains Lorway and Smeltzer came on board for orders. At 9 a.m. Captain Scott inspected the cruisers, and at 11 they proceeded to sea.

23rd October.—Rainy and squally at times. Watered ship from the water boat. Blowing hard at sea.

24th October.—Blowing hard from N.E. At 9.30 inspected ship and ship's company.

25th October.—At 5.30 weighed and proceeded to sea. At 9.30 passed Main-à-Dieu Light House. At noon passed St. Esprit. At 4 p.m. observed the Government cruiser "Critic" closing with us. At 6 anchored inside Sand Point, Strait of Canso. At 8 p.m. Captain McLaren came on board for orders.

26th October.—At 5.30 weighed and proceeded to sea. At 8 rounded the Grimes' Shoal. At 4 p.m. passed Egg Island. At 9 p.m. anchored in Halifax Harbor.

27th to 30th October.—Ship remaining at the Marine and Fisheries wharf making temporary repairs in the engine room.

1st, 2nd, 3rd and 4th November.—Ship remaining at the wharf making trifling repairs.

4th November.—At 7.20 cast off and proceeded to sea and at 2 p.m. anchored in Beaver Harbor.

5th November.—At 6 a.m. weighed and proceeded to the eastward. At 11 passed five American fishermen standing to the westward. At 1 p.m. passed Cranberry Island, and at 5 p.m. anchored in Louisburg harbor.

6th November.—Weighed at 7 a.m. and proceeded to sea. At 8 passed through

Man-à-Dieu Passage. At 11 anchored off North Sydney. At 1 p.m. the Government schooner "Houlett" arrived.

7th November.—Blowing hard from the southward. At 9.30 inspected ship and ship's company. At 11 got up steam and anchored under Dickson's Point.

8th November.—Rainy and squally weather. Mr. Rood, second officer of the "Houlett," joined us as pilot. At 11 entered the Big Bras d'Or. At 4.30 p.m. grounded on a mud flat at the entrance of St. Peter's Canal. At midnight we were still aground.

9th November.—At noon ship floated, and proceeding to Kelly's Cove, anchored there for the night.

10th November.—At 6.30 weighed and proceeded to sea. At 10 passed Port Nova. At 3.30 passed Cranberry Island. At 11.30 passed Egg Island.

11th November.—At 2 a.m. passed Devil's Island. At 3 anchored in Halifax harbor. At 10 hauled into the wharf.

12th November.—At noon cast off and proceeded to sea. At 4.40 p.m. anchored in Aspatogan Harbor.

13th November.—A.M., strong easterly winds; noon, blowing hard. Weighed and ran inside Shut in Island, St. Margaret's Bay, and anchored.

14th November.—A.M., heavy gales from the south west with heavy sea. At 9 weighed and stood out to sea. At 11.45 rounded Sambro. At noon passed Chebucto Head. At 1 lashed to the Marine and Fisheries wharf.

15th November.—Employed landing stores and drying sails. P.M., the ship's company were discharged.

P. A. SCOTT, Captain, R.N.,

*Commanding the Fisheries Protective Service.*

*Canada - Governor General, 1883-1888  
" (Marquie of Lansdowne).*

CORRESPONDENCE

RELATIVE TO THE

FISHERIES QUESTION

1885-87.

---

PRESENTED TO PARLIAMENT BY COMMAND OF HIS EXCELLENCY THE  
GOVERNOR GENERAL, 3RD MAY, 1887.

---



OTTAWA:

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1887.



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No. 1.

*Minister at Washington to the Governor-General.*

BRITISH LEGATION,  
WASHINGTON, 25th June, 1885.

MY LORD,—I have the honour to transmit to your Excellency herewith copies of a treasury circular relating to the termination of the Fishery articles of the Treaty of Washington which I have received from the United States Government.

I have, &c.,

(Sd.) L. S. S. WEST.

His Excellency  
The MARQUIS OF LANSDOWNE.

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[Enclosure No. 1.]

CIRCULAR.

TERMINATION OF CERTAIN ARTICLES OF THE TREATY OF WASHINGTON.

1885.

DEPARTMENT No. 87,  
DIVISION OF CUSTOMS.

TREASURY DEPARTMENT,  
Office of the Secretary,  
WASHINGTON, D.C., June 17th, 1885.

*To Collectors of Customs :*

Under joint resolution of March 3rd, 1883, and the proclamation of the President of the United States of the 31th January, 1885, certain articles of the Treaty of Washington of 1871, including article 21, terminate on the 1st day of July, 1885.

In view of such termination of the provisions of article 21, collectors of customs are instructed that "fish oil and fish of all kinds," the produce of the fisheries of the Dominion of Canada, Prince Edward Island and Newfoundland, which may be imported into the United States from and after the said 1st of July, 1885, will be liable to duty under the existing tariff laws, without regard to their origin.

(Sd.) DANIEL MANNING,  
*Secretary.*

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No. 2.

*Governor-General to Secretary of State.*

OTTAWA, 9th July, 1885.

SIR,—With reference to previous correspondence relating to the negotiations between Her Majesty's Government and the Government of the United States having for their object the conclusion of a temporary arrangement as to the fisheries on the basis proposed in the memo. of the Secretary of State of the United States, a copy of which I had the honour to transmit to the Earl of Derby in my despatch No. 134 of

the 28th April last, I have now the honour to forward, herewith, for your information a copy of a despatch which I have received from Her Majesty's Minister at Washington, enclosing copies of the correspondence which has passed between Mr. West and Mr. Bayard in the course of the negotiations, and in which the agreements concluded in this matter between the two Powers is embodied.

I have, etc.,

The Right Honorable  
The SECRETARY OF STATE  
For the Colonies.

(Sd.) LANSDOWNE.

[Enclosure No. 1.]

*Minister at Washington to Governor-General.*

WASHINGTON, 22nd June, 1885.

MY LORD,—With reference to the correspondence which has passed concerning the temporary arrangement proposed by the Secretary of State, in his memorandum, copy of which was enclosed in my despatch to your Excellency, No. 50 of the 23rd of April last, in consequence of the termination of the fishery articles of the Treaty of Washington on the 1st July next, I have the honour to inform your Excellency that I have been authorized by Earl Granville to negotiate such an arrangement, following as closely as possible the wishes of the Colonial Governments and on the distinct understanding that it is of a temporary nature and without prejudice to equivalents which might be required in a more permanent settlement. I therefore communicated to the Secretary of State the replies of Your Excellency's Government and of that of Newfoundland as conveyed to me by Earl Granville to the proposals contained in Mr. Bayard's above mentioned memo., and on the 19th I received from him a confidential letter, copy of which is herewith enclosed, in which he assumes that the replies of Your Excellency's Government and that of Newfoundland, embrace the acceptance by them of the general features of his memorandum with the understanding expressed on their side that the *agreement had been arrived at under circumstances affording prospect of negotiation for the development and extension of trade between the United States and British North America*, and to which contingent understanding he states that he has no objection. To this communication I replied in a confidential letter, copy of which is enclosed, reiterating the assertions made by the Colonial Governments and stating that they have consented to the arrangement solely as a mark of good will to the Government and people of the United States.

On the 20th I received an official note from the Secretary of State, copy of which is also enclosed, in which he states, that perceiving no substantial differences between the respective propositions and the statement as contained in the correspondence on the subject, he considers the agreement as embodied in the memoranda and correspondence as thus concluded, and that public notification to that effect will be given in a few days by the President.

As no direct allusion was made in this note to the circumstances under which the agreement had been reached, I called on Mr. Bayard and pointed this out to him and he has thereupon addressed to me a further note, copy of which is enclosed.

As I considered this communication satisfactory, I replied to it by the note, copy of which I have the honour to enclose to your Excellency herewith, stating that I considered the agreement as concluded and that I should inform Her Majesty's Government, the Government of Canada and the Government of Newfoundland accordingly.

In negotiating this agreement I have endeavoured as far as possible to meet the wishes of Your Excellency's Government and I trust that it may meet with approval.

I have, &c.,

(Sd.) L. S. S. WEST.

His Excellency  
The MARQUIS OF LANSDOWNE.

[Enclosure No. 2.]

*From Mr. T. F. Bayard to Sir L. S. S. West.*

DEPARTMENT OF STATE,

WASHINGTON, June 19th, 1885.

MY DEAR MR. WEST:

I assume that the two memoranda you handed to me on the 13th instant, embrace the acceptance by the Dominion and the British-American coast provinces of the

general features of my memo. of April 21st, concerning a temporary arrangement respecting the fisheries, with the understanding expressed on their side that the "agreement has been arrived at under circumstances affording prospect of negotiation for development and extension of trade between the United States and British North America."

To such a contingent understanding I have no objection, indeed, I regard it as covered by the statement in my memo. of April 21st that the arrangement therein contemplated would be reached with the understanding that the President of the United States would bring the whole question of the Fisheries before Congress at its next session in December, and recommend the appointment of a Commission in which the governments of the United States and of Great Britain should be respectively represented, which Commission should be charged with the consideration and settlement upon a just, equitable and honourable basis, of the entire question of the fishing rights of the two governments and their respective citizens, on the coast of the United States and British North America.

The equities of the question being before such a mixed Commission would doubtless have the fullest latitude of expression and treatment on both sides, and the purpose in view being the maintenance of good neighbourhood and intercourse between the two countries, the recommendation of any measures which the Commission might deem necessary to attain those ends would seem to fall within its province, and such recommendation could not fail to receive attentive consideration.

I am not, therefore, prepared to state limits to the proposals to be brought forward in the suggested Commission on behalf of either party.

I believe this statement will be satisfactory to you, and I shall be pleased to be informed at the earliest day practicable of your acceptance of the understanding on behalf of British North America, and by this simple exchange of notes and memoranda the agreement will be completed in season to enable the President to make the result publicly known to the citizens engaged in fishing on the British-American Atlantic coast.

I have, &c.,

(Sd.) T. F. BAYARD.

The Honourable

SIR LIONEL S. SACKVILLE WEST, *K.C.M.G.*

[Enclosure No. 3.]

*From Sir L. S. S. West to Mr. Bayard.*

WASHINGTON, June 20th, 1885.

MY DEAR MR. BAYARD:

I beg to acknowledge the receipt of your note of yesterday's date concerning the proposed temporary arrangement respecting the fisheries which I am authorized by Her Majesty's Government to negotiate with you on behalf of the Government of the Dominion of Canada and the Government of Newfoundland to be effected by an exchange of notes founded on your memorandum of the 21st April.

The two confidential memoranda which I handed to you on the 13th instant, contain as you assume the acceptance by the Dominion and the British American Coast Provinces of the general features of your above mentioned memorandum, with the understanding expressed on their side that the agreement has been arrived at under circumstances affording prospect of negotiation for the development and extension of trade between the United States and British North America, a contingent understanding to which, as you state, you can have no objection as you regard it as covered by the terms of your memo. of April 21st.

In authorizing me to negotiate this agreement Earl Granville states as I have already had occasion to intimate to you that it is on the distinct understanding that it is a temporary one and that its conclusion must not be held to prejudice any claim which may be advanced to more satisfactory equivalents by the Colonial Governments in the course of the negotiations for a more permanent settlement.

Earl Granville further wishes me to tell you that Her Majesty's Government and the Colonial Government have consented to the arrangement solely as a mark of good will to the Government and people of the United States, and to avoid difficulties which might be raised by the termination of the fishery articles in the midst of the fishing season, and also the acceptance of such *modus vivendi* does not by any implication affect the value of the inshore fisheries by the Governments of Canada and Newfoundland.

I had occasion to remark to you that while the Colonial Governments are asked to guarantee immunity from interference to American vessels resorting to Canadian waters, no such immunity is offered in your memorandum to Canadian vessels resorting to American waters, but that the Dominion Government presumed that the agreement in this respect would be mutual.

16b—1½

As you accepted this view it would I think be as well that mention should be made to this effect in the notes.

Under the reservations as above indicated in which I believe you acquiesce, I am prepared to accept the understanding on behalf of British North America and to exchange notes in the above sense.

I have, &c.,

(Sd.) L. WEST.

The Honorable  
T. F. BAYARD.

[Enclosure No. 4.]

*Mr. Bayard to Sir L. S. S. West.*

DEPARTMENT OF STATE,  
WASHINGTON, 20th June, 1885.

SIR,—I have just received your note of to-day's date in regard to the proposed temporary arrangement touching the fisheries.

Undoubtedly it is our clear and mutual understanding that the arrangement now made is only temporary, and it proceeds from the mutual good will of our respective governments, and solely to avoid all difficulties which might otherwise arise from the termination of the fishing of 1885 in the midst of the season.

I understand, also, that the same immunity which is accorded by this agreement to the vessels belonging to the citizens of the United States engaged in fishing in the British-American waters will be extended to British vessels and subjects engaged in fishing in the waters of the United States.

Perceiving, therefore, no substantial difference between our respective propositions and these statements as contained in our correspondence on the subject, I shall consider the agreement as embodied in our memoranda and the Correspondence between us as thus concluded ; and public notification to that effect will be given in a few days by the President.

I have, &c.,

(Sd.) T. F. BAYARD.

The Honorable  
SIR LIONEL S. SACKVILLE WEST, K.C.M.G.

[Enclosure No. 5.]

*Mr. Bayard to Sir L. S. S. West.*

DEPARTMENT OF STATE,  
WASHINGTON, 22nd June, 1885.

SIR,—In compliance with your verbal request that I should re-state part of my note to you of the 19th, I repeat that the arrangement whereby a *modus vivendi* on the fishery question has been reached, rests on the memoranda and correspondence exchanged ; that your memo. of the 13th instant expressed the understanding on your side that the agreement has been arrived at under circumstances affording prospects of negotiation for the development and extension of trade "between the United States and British North America," that I not only had no objection to such an understanding, but in fact regarded it as amply embraced in our proposal to recommend a commission to deal with the whole subject in the interests of good neighbourhood and intercourse, and that the recommendation of any measures which the commission might deem necessary to attain those ends would seem to fall within its province and such recommendations could not fail to have attentive consideration.

Having thus, not only admitted the proviso of your memo. in your own language, but gone still further and pointed out that no limits would be set, so far as I was concerned, to the proposals to be brought forward in the suggested commission on behalf of either party, I do not see how it is possible for me to give any stronger assurance that the understanding has been reached under circumstances affording a prospect of negotiation for the development and extension of trade between the United States and British North America.

I have, &c.,

(Sd.) T. F. BAYARD.

The Honourable,  
SIR LIONEL S. SACKVILLE WEST, K.C.M.G.

[Enclosure No. 6]

*Minister at Washington to Mr. Bayard.*

WASHINGTON, June 22nd, 1885.

Sir,—I have the honor to acknowledge the receipt of your notes of the 20th and 22nd instant, in regard to the proposed temporary arrangement touching the fisheries, in which you state that it is our clear and mutual understanding that such arrangement is only temporary, and that it proceeds from the mutual good will of our respective governments, and solely to avoid all difficulties which might otherwise arise from the termination of the fishing of 1885 in the midst of the season.

Also that the same immunity which is accorded by this agreement to the vessels belonging to the citizens of the United States engaged in fishing in the British American waters will be extended to British vessels and subjects engaged in fishing in the waters of the United States, and that the agreement has been reached under circumstances affording a prospect of negotiation for the development and extension of trade between the United States and British North America.

As therefore there exists no substantial difference between our respective propositions and the statements as contained in our correspondence on the subject I shall consider the agreement as embodied in our memoranda and the correspondence between us as thus concluded and shall inform Her Majesty's Government and the governments of the Dominion of Canada and Newfoundland accordingly.

I have, &amp;c.,

(Sd.)

L. WEST.

The Honourable T. F. BAYARD.

No. 3.

*Governor General to Secretary of State.*

OTTAWA, 9th July, 1885.

SIR,—With reference to my despatch No 212 of this day, and previous correspondence relating to the termination of the operation of the fishery clauses of the

*Vide Enclosure No. 1 of No. 1.* Treaty of Washington, I have the honour to forward herewith for your information a copy of a despatch from Her Majesty's Minister at Washington, transmitting a copy of a Treasury circular issued to United States' Collectors of Customs on the subject of the duties to which imports of fish and fish products from Canada are liable after the 1st July of the present year.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Right Honourable,  
*The Secretary of State for the Colonies.*

No. 4.

*Minister at Washington to Governor General.*

WASHINGTON, 16th July, 1885.

MY LORD,—In connection with the fisheries question I have the honour to enclose to Your Excellency herewith an article from the "Nation" newspaper, setting forth the advantages which accrued to both countries under the treaties of 1854 and 1871.

I have, &amp;c.,

(Sd.)

L. S. S. WEST.

His Excellency,  
THE MARQUIS OF LANSDOWNE.

[Enclosure No. 1.]

[Extract from the *Nation* of July 9th, 1885 :—]

THE FISHERIES.

No more apt illustration can be found of the folly of a protective tariff than that which the periodical recurrence of the fisheries dispute affords. If Canada and the United States were joined together by a political union all commercial and industrial bickering between the

two countries would cease at once. There would be no more cause of irritation than there is between the fishermen of New York and those of New Jersey. We should never hear of the shore line, and the headland, and the marine league, and the right to buy bait and to cure fish, and the other unpleasant controversies which are now vexing the statesmen of the two countries. If all these commercial questions could be put at rest as to both, by a political resolution in which both should unite, why may they not be settled by a treaty? Simply because the country has got its head set on the notion that every body who produces anything that can be imported from abroad must be protected against foreign competition. The Treaty of Washington, which admitted fish and fish oil free of duty in return for the privileges accorded to American fishermen in Canadian waters, was forced upon the Gloucester fishermen against their protest, and they have never ceased to consider themselves badly used by it—not because they have any natural right to shut out other people's fish from the market, but because they see other people's iron, woollen, and cotton goods shut out for the benefit of American producers and manufacturers. In order to vindicate the "great principle" in behalf of fish and blubber, we gave notice of the termination of the fishery clauses of the treaty, and now we are in hot water again, as we have been half a-dozen times before.

Yet it is within the recollection of most of our readers that for ten years prior to 1864 there was peace and content between the two countries under the Reciprocity Treaty. The products of the soil, the mines, the forests and the waters were admitted free of duty into both countries, and nobody fancied himself harmed on either side of the border. But the Morrill tariff was passed in 1861, and straightway the lumbermen, the fishermen, the coal miners, the potato growers, the stone quarriers, and even the ice cutters began to clamour for protection. The friends of the Morrill tariff saw that they must maintain their consistency by abrogating the treaty as soon as its terms permitted. Being all powerful in the councils of the nation, they gave notice of its termination, and then we had difficulties and disputes about fishing rights until the *Alabama* claims came up for settlement. In considering these claims it was wisely decided to make one chapter of all outstanding differences between Great Britain and the United States. So the fisheries question and the San Juan Island question were included in the adjustment. England paid us \$15,000,000 for the rebel cruiser depredations and surrendered San Juan Island to us. We paid her \$5,000,000 for the use of the fisheries during the period which had elapsed since the abrogation of the Reciprocity Treaty, and agreed that in consideration of the future use of these privileges, we would admit Canadian fish and oil free of duty—a grant which would have been advantageous to the nation at large, even without any corresponding grant on the other side.

It is too late now—the world has gone forward too far—to make a serious matter of the old Treaty of 1818, which the Gloucester fishermen denounce as a violation of their rights and a thing to be abrogated at all costs and hazards. This treaty conceded to the British authorities the right to forbid American fishing vessels from entering Canadian ports for any purpose except for shelter or to procure wood and water, thus cutting them off from all commercial privileges, and putting into the hands of the Canadians the power to drive our vessels to sea, and forbid the purchase of ice or bait or supplies. This extraordinary concession on our part constitutes the basis of most of the hostile legislation of the Dominion. They ought not to insist upon it. The right to sell is equal to the right to buy. If our fishermen gain anything by purchasing bait and supplies in their ports, the Canadian vendors gain as much. On the other hand, the right to buy is equal to the right to sell. If Canadian fishermen gain anything by selling their mackerel and cod in our markets, the American consumers gain as much. It is a poor rule which will not work both ways. What is wanted now is not a collection of ironclads on the fishing grounds to protect mediæval rights, and enforce an exploded mercantile idea, but an abandonment on both sides of a false principle, which assumes that the producers of a given article have a right to be protected, at the expense of the whole community, against foreign competition.

The abrogation of the Treaty of 1818, which the fishermen now call for, will of course bring up the question of the tariff, since they insist stoutly upon the enforcement of existing duties on fish, and even ask that the ridiculous Treasury regulations, which have multiplied and augmented the restrictions upon trade, shall be enacted into law. One of these regulations declares that "fish, fresh, for consumption," which are free of duty under the general tariff, must not be frozen, since in order to make them fit for consumption, they must first be thawed. Frozen fish, therefore, are put in the same category as smoked or salted fish, and made dutiable at the rate of 50 cents per 100 pounds. Again, if the fish are delivered fresh and unfrozen in the American market, and are not immediately consumed, but are salted or smoked for future use, they become dutiable under the rulings of our wise and vigilant Treasury expounders. These regulations the fishermen insist upon having enacted into law at once, lest some present or future Secretary should take it into his head that fresh fish are all fish not smoked, dried, salted, or pickled. Whatever the most fanatical

protectionists can conceive in the way of restrictions upon commerce they intend to urge upon the Government, demanding, as they say, "only the same protection that is afforded to every other producing industry." The corollary of such a demand is either a succession of "outrages" producing national irritation and leading to armed hostilities, or the purchase on our part of the fishing privileges for which we paid \$5,000,000 a few years ago. We do not imagine that Minister Phelps, or Secretary Bayard, or President Cleveland, or the Congress of the United States will give their sanction to any policy which points to war, or to an annual appropriation of money from the Treasury to buy fishing rights, when they have before them the peaceful and cheap alternative presented by the treaties of 1854 and 1871. As to the decaying doctrine of protection, the time has come to hit whenever it shows its head.

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No. 5.

*Secretary of State to Governor-General.*

DOWNING STREET, 21st July, 1885.

MY LORD,—I understand that Her Majesty's Minister at Washington has communicated to you copies of the notes which have been exchanged between himself and the Government of the United States recording the arrangement recently arrived at with that Government upon the subject of the fisheries.

Her Majesty's Government trust that the terms of the arrangement made between Mr. West and Mr. Bayard are satisfactory to your Government.

I have, &c.,

(Sd.) FRED. STANLEY.

His Excellency

THE GOVERNOR-GENERAL.

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No. 6.

*Minister at Washington to Governor-General.*

WASHINGTON, 21st July, 1885.

MY LORD,—I have the honour to enclose to your Excellency herewith copies of the correspondence on the subject of the agreement between Great Britain and the United States respecting the Fisheries which has been officially published by the U. S. Government.

I have, &c.,

(Sd.) L. WEST.

His Excellency

The Governor-General.

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[Enclosure No. 1.]

AGREEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN RESPECTING THE FISHERIES.  
CONCLUDED JUNE 22ND, 1885.

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NOTICE.

By direction of the President, the undersigned, Secretary of State, hereby makes known to all whom it may concern that a temporary diplomatic agreement has been entered into between the Government of the United States and the Government of Her Britannic Majesty in relation to the fishing privileges which were granted by the fishery clauses of the treaty between the United States and Great Britain of May 8th, 1871, whereby the privilege of fishing, which would otherwise have terminated with the treaty clauses on the 1st of July proximo, may continue to be enjoyed by the citizens and subjects of the two countries engaged in fishing operations throughout the season of 1885.

This agreement proceeds from the mutual good-will of the two Governments, and has been reached solely to avoid all misunderstanding and difficulties which might otherwise arise from the abrupt termination of the fishing of 1885 in the midst of the season. The

immunity which is accorded by this agreement to the vessels belonging to citizens of the United States engaged in fishing in the British American waters will likewise be extended to British vessels and subjects engaged in fishing in the waters of the United States.

The joint resolution of Congress of March 3rd, 1883, providing for the termination of the fishing articles of the treaty of May 8th, 1871, having repealed in terms the Act of March 1st, 1873, for the execution of the fishing articles, and that repeal being express and absolute from the date of the termination of the said fishing articles, under due notification given and proclaimed by the President of the United States, to wit., July 1st, 1885, the present temporary agreement in no way affects the question of statutory enactment or exemption from custom duties, as to which the abrogation of the fishing articles remains complete.

As part of this agreement, the President will bring the whole question of the fisheries before Congress at its next session in December, and recommend the appointment of a joint commission by the Governments of the United States and Great Britain to consider the matter, in the interest of maintaining good neighborhood and friendly intercourse between the two countries, thus affording a prospect of negotiation for the development and extension of trade between the United States and British North America.

Copies of the memoranda and exchanged notes on which this temporary agreement rests are appended.

Reference is also made to the President's proclamation of January 31st, 1885, terminating the fishing articles of the Treaty of Washington.

By direction of the President,

T. F. BAYARD,  
*Secretary of State.*

[Enclosure No. 2.]

*Mr. Bayard to Mr. West, April 22nd, 1885.*

[Memorandum of April 22nd, 1885.]

DEPARTMENT OF STATE,  
Washington, April 22nd, 1885.

DEAR MR WEST,—I have on several occasions lately, in conversation, acquainted you with my interest in the fisheries memorandum which accompanied your personal letter of March 12th.

Several informal talks I have had with Sir Ambrose Shea have enabled me to formulate the views of this Government upon the proposition made in behalf of the Dominion and the Province of Newfoundland, and I take pleasure in handing you herewith a memorandum embodying the results. If this suits, I shall be happy to confirm the arrangement by an exchange of notes at your early convenience.

I am, my dear Mr. West, very sincerely yours,

T. F. BAYARD.

The Hon. L. S. SACKVILLE WEST, &c.

[Enclosure No. 3.]

MEMORANDUM.

The legislation passed by the Congress of the United States, Act of March 1st, 1873, for the execution of the fishery articles of the Treaty of Washington, has been repealed by the joint resolution of March 3rd, 1883, the repeal to take effect July 1st, 1885. From that date the effects of the fisheries articles of the Treaty of Washington absolutely determine, so far as their execution within the jurisdiction of the United States is concerned, and without new legislation by Congress modifying or postponing that repeal the Executive is not constitutionally competent to extend the reciprocal fisheries provisions of the treaty beyond the 1st of July next, the date fixed by the action of Congress.

Mr. West's memorandum of March 12th, 1885, suggests the mutual practical convenience that would accrue from allowing the fishing ventures commenced prior to July 1st, 1885, to continue until the end of the season for fishing of that year, thus preventing their abrupt termination in the midst of fishing operations on the 1st of July.

It has been, moreover, suggested on the part of the Province of Newfoundland and of the Dominion of Canada, that in view of the mutual benefit and convenience of the present

local traffic, consisting of the purchase of ice, bait, wood, and general ship supplies by the citizens of the United States engaged in fishing from the inhabitants of the British American fishing coast, the usual operations of the fishing season of 1885 should be continued by the fishing vessels belonging to citizens of the United States until the end of the season of that year, and that the local authorities of Newfoundland and the Dominion of Canada, in a spirit of amity and good neighbourhood, should abstain from molesting such fishermen or impeding their progress or their local traffic with the inhabitants incidental to fishing during the remainder of the season of 1885, and all this with the understanding that the President of the United States would bring the whole question of the fisheries before Congress at its next session in December, and recommend the appointment of a commission in which the Governments of the United States and of Great Britain should be respectively represented, which commission should be charged with the consideration and settlement, upon a just, equitable, and honourable basis, of the entire question of the fishing rights of the two Governments and their respective citizens on the coasts of the United States and British North America.

The President of the United States would be prepared to recommend the adoption of such action by Congress with the understanding that in view and in consideration of such promised recommendation there would be no enforcement of restrictive and penal laws and regulations by the authorities of the Dominion of Canada or of the Province of Newfoundland, against the fishermen of the United States resorting to British American waters between the 1st of July next and the close of the present year's fishing season; the mutual object and intent being to avoid any annoyance to the individuals engaged in this business and traffic, and the irritation or ill-feeling that might be engendered by a harsh or vexatious enforcement of stringent local regulations on the fishing coast pending an effort to have a just and amicable arrangement of an important and somewhat delicate question between the two nations.

Public knowledge of this understanding and arrangement can be given by an exchange of notes between Mr. West and myself, which can be given to the press.

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[Enclosure No. 4.]

*Mr. West's Memoranda of June 13th, 1885.*

[Memoranda].

It is proposed to state in notes according temporary arrangements respecting fisheries that an agreement has been arrived at under circumstances affording prospect of negotiation for development and extension of trade between the United States and British North America.

The Government of Newfoundland do not make refunding of duties a condition of their acceptance of the proposed agreement, but they rely on it having due consideration before the international commission which may be appointed.

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[Enclosure No. 5.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

### A PROCLAMATION.

Whereas the treaty concluded between the United States of America and Her Majesty the Queen of Great Britain and Ireland, concluded at Washington on the 8th day of May, 1871, contains among other articles the following, viz :

#### "ARTICLE XVIII."

"It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States fishermen by the Convention between the United States and Great Britain signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea coasts and shores, and in the bays, harbours and creeks of the Provinces of Quebec, Nova Scotia and New Brunswick, and the Colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance

from the shore, with permission to land up on the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; Provided that in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

"It is understood that the above mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers are hereby reserved exclusively for British fishermen."

#### "ARTICLE XIX."

"It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the eastern sea coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbours and creeks of the said sea coasts and shores of the United States and of the said islands without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

"It is understood that the above mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States."

#### "ARTICLE XX."

"It is agreed that the places designated by the Commissioners appointed under the first Article of the Treaty between the United States and Great Britain, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's Dominions and the United States, as places reserved from the common right of fishing under that Treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding articles. In case any question should arise between the Governments of the United States and of Her Britannic Majesty as to the common right of fishing in places not thus designated as reserved, it is agreed that a Commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties and authority as the Commission appointed under said first Article of the Treaty of the 5th of June, 1854."

#### "ARTICLE XXI."

"It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish oil and fish of all kinds (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country, respectively, free of duty."

#### "ARTICLE XXII."

"Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this Treaty are of greater value than those accorded by articles XIX and XXI of this Treaty, to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States, it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty; and that any sum of money which the said Commissioners may so award shall be paid by the United States Government, in a gross sum, within twelve months after such award shall have been given."

#### "ARTICLE XXIII."

"The Commissioners referred to in the preceding Article shall be appointed in the following manner, that is to say: One Commissioner shall be named by the President of

the United States, one by Her Britannic Majesty, and a third by the President of the United States and Her Britannic Majesty conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this article shall take effect, then the third Commissioner shall be named by the Representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

"The Commissioners so named shall meet in the City of Halifax, in the Province of Nova Scotia, at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to the best of their judgment, and according to justice and equity; and such declaration shall be entered on the record of their proceedings.

"Each of the High Contracting Parties shall also name one person to attend the Commission as its agent, to represent it generally in all matters connected with the Commission."

#### "ARTICLE XXIV."

"The proceedings shall be conducted in such order as the Commissioners appointed under Articles XXII and XXIII of this Treaty shall determine. They shall be bound to receive such oral or written testimony as either Government may present. If either party shall offer oral testimony, the other party shall have the right of cross-examination, under such rules as the Commissioners shall prescribe.

"If in the case submitted to the Commissioners either party shall have specified or alluded to any report or document in his own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Commissioners, to produce the originals, or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Commissioners may require.

"The case on either side shall be closed within a period of six months from the date of the organization of the Commission, and the Commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the Commissioners under the circumstances contemplated in Article XXIII of this Treaty."

#### "ARTICLE XXV."

"The Commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary and any other necessary officer or officers to assist them in the transaction of the business which may come before them.

"Each of the High Contracting Parties shall pay its own Commissioner and agent or counsel; all other expenses shall be defrayed by the two Governments in equal moieties."

#### ARTICLE XXX."

"It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, subjects of Her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandise from one port or place within the territory of the United States upon the St. Lawrence, the Great Lakes, and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid: Provided, that a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

"Citizens of the United States may for the like period carry in United States vessels, without payment of duty, goods, wares, or merchandise from one port or place within the Possessions of Her Britannic Majesty in North America to another port or place within the said Possessions: Provided, That a portion of such transportation is made through the territory of the United States by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of the United States and the Government of Her Britannic Majesty.

"The Government of the United States further engages not to impose any export duties on goods, wares, or merchandise carried under this article through the territory of the United States; and Her Majesty's Government engages to urge the Parliament of the Dominion of

Canada and the Legislatures of the other colonies not to impose any export duties on goods, wares, or merchandise carried under this article ; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that such duties are imposed, the right of carrying granted under this article in favour of the subjects of Her Britannic Majesty.

" The Government of the United States may suspend the right of carrying granted in favor of the subjects of Her Britannic Majesty under this article, in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII."

" ARTICLE XXXII."

" It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this Treaty, inclusive, shall extend to the Colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States, shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing articles into effect, then this article shall be of no effect ; but the omission to make provision by law to give it effect by either of the Legislative bodies aforesaid, shall not in any way impair any other articles of the Treaty."

And, whereas, pursuant to the provisions of Articles XXXIII of said Treaty, due notice has been given to the Government of Her Britannic Majesty of the intention of the Government of the United States of America, to terminate the above recited Articles of the Treaty in question, on the 1st day of July, 1885 :

And, whereas, pursuant to the terms of said Treaty, and of the notice given thereunder by the Government of the United States of America to that of Her Britannic Majesty, the above recited articles of the Treaty of Washington, concluded May 8th, 1871, will expire and terminate on the 1st day of July, 1885 :

Now, therefore, I, Chester A. Arthur, President of the United States of America, do hereby give public notice that Articles XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXX, and XXXII, of the Treaty of Washington, concluded May 8th 1871, will expire and terminate on the 1st day of July, 1885, and all citizens of the United States are hereby warned that none of the privileges secured by the above recited articles of the Treaty in question will exist after the 1st day of July next ; all American fishermen should govern themselves accordingly.

Done at the City of Washington, this 31st day of January, in the year of Our Lord one thousand eight hundred and eighty-five, and of the Independence of the United States of America the one hundred and ninth.

[SEAL]

By the President :

FREDK. T. FRELINGHUYSEN,  
Secretary of State.

CHESTER A. ARTHUR.

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No. 7.

*Colonel Stanley to Lord Lansdowne.*

(Telegraphic message).

1st August, 1885.

To LORD LANSDOWNE,—Her Majesty's Government think desirable steps should be taken by the Canadian Government in concert with the Government of Newfoundland, to decide definitely on the exact nature of propositions desirable to be made the United States Government in anticipation of negotiation on the termination of a temporary arrangement of the fishery question.

All points involved should be carefully considered and information respecting prepared in good time ; similar telegram sent Newfoundland ; despatch follows by mail.

(Sd) STANLEY.

No. 8.

*Governor-General to Secretary of State.*

TORONTO, 7th August, 1885.

SIR,—I have the honour to forward herewith for your information a copy of a despatch which I have received from Her Majesty's Minister at Washington enclosing copies of the correspondence on the subject of the agreement between Great Britain and the United States, respecting the fisheries, which has been officially published by the United States Government.

I have, &amp;c.,

(Sd) LANSDOWNE.

The Right Honourable

THE SECRETARY OF STATE FOR THE COLONIES.

No. 9.

*Colonel Stanley to the Governor General.*

DOWNING STREET, 11th August, 1885.

MY LORD,—On the 1st instant I sent you a telegram in which I informed you that Her Majesty's Government deemed it desirable that steps should be taken by your Government, in concert with the Government of Newfoundland, to decide definitely on the exact nature of the proposals to be made to the Government of the United States in anticipation of the negotiations, which are contemplated in view of the termination of the temporary arrangement lately made between Her Majesty's Minister at Washington and the United States Government, arising out of the termination of the Fishery Articles of the Treaty of Washington on the 1st of last month. I informed you to the effect that, all points likely to be involved in the coming negotiations should be carefully considered and information respecting them prepared in good time.

No. 10. I now enclose a copy of a letter from the Foreign Office on which my telegram was founded.

I should be glad if you will apprise me of the result of the communications which may pass between your Government and that of Newfoundland upon this subject.

I have, &amp;c.,

(Sd) FRED. STANLEY.

Governor-General,

The Most Honourable

THE MARQUIS OF LANSDOWNE, G.C.M.G.

No. 10.

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 18th July, 1885.

SIR,—With reference to my letter of the 11th instant on the subject of the temporary arrangement with the United States, relative to the fisheries, I am directed by the Marquis of Salisbury to suggest for Colonel Stanley's consideration, that it would be desirable to call the attention of the Governments of Canada and Newfoundland to the necessity of arriving at a conclusion as to the course to be adopted in

anticipation of the coming negotiations, for the successful conduct which it will be necessary not only to be prepared with accurate information on all the points likely to be raised, but also to decide in advance on the exact nature of the proposal which it will be desirable to make in the interest of both colonies.

I am at the same time to inquire whether Colonel Stanley is of opinion that any further, and if so, what, action should be taken at present.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

THE UNDER SECRETARY OF STATE,  
Colonial Office, London.

No. 11.

*Governor General to Minister at Washington.*

OTTAWA, 20th August, 1885.

SIR,—With reference to your despatch No. 82 of the 22nd June last, transmitting the correspondence between yourself and Mr. Bayard, in which the agreement respecting the fisheries was embodied, I have the honour to enclose herewith a copy of an approved report of a Committee of the Privy Council expressing the satisfaction of my Government with the agreement referred to and their high appreciation of the ability with which you have conducted the negotiations in the matter.

I have sent a copy of this Minute of Council to the Secretary of State for the Colonies.

I have, &c.,  
(Sd.)

LANSDOWNE.

The Honourable  
Sir LIONEL S. SACKVILLE WEST, K.C.M.G.

[Enclosure No. 1.]

*REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 14th August, 1885.*

The Committee of the Privy Council have had under consideration a despatch dated 21st July, 1885, from the Right Honourable the Secretary of State for the Colonies, expressing the hope that the terms of the arrangement made between the British Ambassador at Washington and Mr. Bayard on the subject of the fisheries would be satisfactory to the Canadian Government.

The Committee desire to state to Your Excellency that such arrangement is perfectly satisfactory, and they further beg to express their high appreciation of the able manner in which Her Majesty's Minister at Washington, Sir Sackville West, conducted the negotiations.

The Committee advise that Your Excellency be moved to transmit a copy of this Minute to the Right Honourable the Secretary of State for the Colonies and to the British Ambassador at Washington.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. MCGEE,  
Clerk Privy Council.

No. 12.

*Governor General to Secretary of State.*

OTTAWA, 21st August, 1885:

SIR,—With reference to your despatch (No. 150) of the 21st ultimo, I have the honor to enclose herewith a copy of an approved report of a Committee of the Privy Council expressing the satisfaction of my Government with the arrangement respecting the fisheries which has been concluded with the United States, and their high appreciation of the ability with which Her Majesty's Minister at Washington has conducted the negotiations.

I have forwarded a copy of this Minute of Council to Sir L. S. Sackville West.

I have, &amp;c.,

(Sd.) LANSLOWNE.

The Right Honourable

THE SECRETARY OF STATE FOR THE COLONIES.

No. 13.

*Governor General to Secretary of State.*

OTTAWA, 4th September, 1885.

SIR,—With reference to your despatch No. 167, of the 11th ultimo, expressing the desire of Her Majesty's Government that my Government and that of Newfoundland should take steps toward defining the exact proposals to be made to the Government of the United States in anticipation of the negotiations which are anticipated in view of the termination of the temporary arrangement recently concluded respecting the fisheries, I have the honour to forward herewith a copy of an approved report of Committee of the Privy Council, from which it will be seen that communications will at once be opened with the Government of Newfoundland in order to secure a discussion of the whole question between the two Governments.

I have to-day communicated by cable with the Government of Newfoundland on this matter.

I have, &amp;c.,

(Sd.) LANSLOWNE.

The Right Honourable,

THE SECRETARY OF STATE FOR THE COLONIES.

[Enclosure No. 1.]

*CERTIFIED COPY of a Report of a Committee of the Honorable the Privy Council for Canada, approved by His Excellency the Governor General in Council on the 3rd September, 1885.*

The Committee of the Privy Council have had under consideration a despatch dated 11th of August, 1885, from the Right Honourable the Secretary of State for the Colonies advising that Her Majesty's Government deemed it desirable that steps should be taken by the Canadian Government in concert with the Government of Newfoundland to decide definitely on the exact nature of the proposals to be made to the Government of the United States in anticipation of the negotiations which are contemplated in view of the termination of the temporary arrangement lately made between Her Majesty's Minister at Washington and the United States Government, arising out of the termination of the Fishery Articles of the Treaty of Washington on the 1st July last.

The Right Hon. the President of the Council, to whom the despatch was referred, recommends that communication should be had both by cable and letter inviting the Government of Newfoundland either to send a representative to Ottawa to discuss the whole question, or, if that be inconvenient, to communicate the views of the Island Government.

The Committee concur in the recommendation of the President of the Council and they advise that Your Excellency be moved to transmit a copy of this Minute, if approved, to His Excellency the Governor of Newfoundland and also to the Right Hon. the Secretary of State for the Colonies, so as to inform him of the action taken by the Canadian Government on his despatch of the 11th August ult.

All of which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
*Clerk Privy Council.*

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No. 14.

*Governor General to Governor of Newfoundland.*

OTTAWA, 4th September, 1885.

SIR,—I had the honour to send you to-day a telegraphic message as follows:—

“ In anticipation of negotiations approaching termination of arrangement respecting fishery question, Dominion Government invite representative from  
Enc. No. 1 Newfoundland to visit Ottawa to fully discuss whole question; if incon-  
of No. 13. venient, request views of your Ministers. Despatch follows by mail.”

I have now the honour to forward a copy of an approved report of a Committee of the Privy Council dated the 3rd inst., on which my telegram was based.

I have, &c.,  
(Sd.) LANSDOWNE.

His Excellency  
THE GOVERNOR OF NEWFOUNDLAND.

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No. 15.

*Copy of telegram from Mr. Carter, of Newfoundland, to Governor General.*

ST. JOHN'S, 7th September, 1885.

Your telegram of 4th September submitted to Executive Council who wait for despatch.

(Sd.) CARTER.

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No. 16.

*The Administrator of Newfoundland to Governor General.*

NEWFOUNDLAND, 21st September, 1885.

MY LORD,—I have the honour to acknowledge the receipt of Your Lordship's despatch of the 4th instant, addressed to Sir John Glover, with a copy of your telegraphic message of the same date, also a copy of an approved report of a Committee of the Privy Council, on which the telegram was based, having reference to proposals to be made to the Government of the United States in anticipation of the negotiations contemplated in view of the expiration of the temporary arrangement lately made between Her Majesty's Minister at Washington and the United States Government, arising out of the articles of the Treaty of Washington, terminated on the 1st of July last, and suggesting that a delegate should proceed from this country to confer with the Government of the Dominion, or that the views of the Newfoundland Government be communicated respecting a new Fisheries arrangement between the United States, Canada and Newfoundland.

The Council request me to communicate to Your Lordship that the number of their body being now only four members, and a general election being appointed to take place on the 31st of October next, they do not feel themselves at present in a position to send a delegate to Canada or to offer any definite expression of the views of the Colony on the important subject in question, and at their suggestion I have respectfully to request that any further proceeding on the part of this Government be deferred until the result of the approaching election shall have been ascertained.

The Council would be glad in the meantime to be favoured with the views of the Dominion Government in relation to this subject.

I have, &c.,

(Sd.)

M. T. CARTER,

*Administrator.*

His Excellency

THE GOVERNOR GENERAL.

No. 17.

*Mission at Washington to Deputy Governor.*

WASHINGTON, 10th October, 1885.

SIR,—I have the honor to enclose herewith copies of a circular issued by the Committee of the Boston Fish Bureau, and to inform you that I have called the attention of the Secretary of State thereto.

I have &c.,

(Sd.)

L. S. S. WEST.

THE DEPUTY GOVERNOR,  
Ottawa.

[Enclosure No. 1]

Boston, September, 1885.

DEAR SIR,—The Boston Fish Bureau, an organization composed of the principal wholesale dealers and commission merchants in fish of this city, has passed the following resolution:—

*Resolved*, That the Boston Fish Bureau earnestly favors such an arrangement between the United States, the Dominion of Canada, and the Province of Newfoundland as shall include the reciprocal admission, free of duties, of the products of the fisheries of these countries.

We desire to present the reasons for this resolution, and to appeal to the dealers in and consumers of fish throughout the country, to aid us in impressing upon Congress the importance of free importation of fish from the British Provinces. It is well known that the New England Fisheries do not produce certain varieties of fish which the trade requires, and of certain other kinds the supply obtained on our coast is entirely inadequate to our needs. We are obliged to rely entirely upon the Provinces for our stock of fat herring and for the larger part of the cheaper grades of herring, both pickled and smoked, of alewives, salmon, trout and shad. We need the hard dried codfish of Newfoundland and the choice slack-salted codfish and pollock of Nova Scotia. For several years past the mackerel caught in American waters have been mostly of small size, and we have needed the larger fish caught in Canadian waters. During the past two winters we could not have filled orders for large fat mackerel except for the supply obtained from Nova Scotia and Prince Edward Island. Present indications point to a repetition of this condition during the coming winter. Whatever we need from Canada must be obtained at the additional expense of the duties, which the consumer must pay. The duties, being specific, bear very heavily on the cheaper grades of fish, amounting in many cases to from fifty to one hundred per cent. on the original cost, and resulting in a prohibition of imports or a very largely enhanced cost to the consumer.

The people who will gain anything by the exaction of duties are a few hundred vessel owners in New England. The pretence that protective duties on fish is an encouragement to American fishermen, and the argument that the fisheries furnish a training school for our navy, were long since exploded by the fact that a very large proportion of the men who fish

in American vessels are citizens of the British Provinces. Hordes of them come here every spring, man our vessels for the fishing season, and return home when it is over. It is estimated that from fifty to seventy-five per cent. of the men in the Gloucester mackerel fleet are citizens of the Dominion of Canada, and the same is true to a greater or less extent of other fishing ports. It is acknowledged that without them we would be unable to man our fleet. These men have no interest in our country and its institutions, and in the event of war with England would be found in the enemy's fleet. Is it fair that we should be taxed for their support, or that a few owners of fishing vessels should reap an advantage obtained at the expense of the great body of consumers of fish in all parts of the country?

As dealers in fish, handling large quantities of the products of the sea, we feel that our interests are identical with yours in demanding that there should be no duties on articles of food which are consumed so largely by people of moderate means. Questions of a larger nature, involving matters of international importance, make it probable that the subject of reciprocity with Canada will come before Congress at its next session. We ask of you that you will use your best efforts to impress upon your Senators and Representatives that they should vote upon this question in accordance with your interests and with the interests of a large majority of the people of the country.

Respectfully yours,

WILLIAM F. JONES,	} Committee of the Boston Fish Bureau.
C. W. WRIGHTINGTON,	
EDWARD T. RUSSELL,	
L. PICKERT,	
B. F. DEBUTTS,	

No. 18.

*Deputy Governor to Secretary of State.*

OTTAWA, 16th October, 1885.

SIR,—With reference to previous correspondence touching the negotiations contemplated in view of the expiration of the temporary arrangement with the United

No. 16. States respecting the fisheries, I have the honour to forward herewith for your information a copy of a despatch from the officer administering the Government of Newfoundland, in reply to a suggestion made by the Governor General that a delegate from that Government should visit Canada for the purpose of conferring with the Government of the Dominion regarding the proposals to be made in connection with the anticipated negotiations referred to, or that, failing the visit of a delegate, the Newfoundland Government should communicate its views upon the matter.

I have caused a copy of this despatch to be communicated to the Privy Council for their consideration.

I have, &c.,  
(Sd.)

W. J. RITCHIE.

The Right Honourable

THE SECRETARY OF STATE FOR THE COLONIES.

No. 19.

*Deputy Governor to Secretary of State.*

OTTAWA, 16th October, 1885.

SIR,—I have the honour to forward herewith for your information a copy of a despatch which I have received from Her Majesty's Minister at Washington enclosing copies of a circular issued by the Committee of the Boston Fish Bureau which embodies a resolution of that body in favour of recipro-

No. 17.

city between the United States, Canada and Newfoundland, in respect of the products of the fisheries of these countries.

I have caused a copy of this despatch and enclosures to be communicated to the Privy Council for their information.

I have, &c.,

(Sd.)

W. J. RITCHIE.

The Right Honourable

THE SECRETARY OF STATE FOR THE COLONIES.

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No. 20.

*Colonial Office to Governor General.*

DOWNING STREET, 4th November, 1885.

MY LORD,—I have the honour to acknowledge the receipt of the Deputy Governor's despatch No. 36, of the 16th ultimo, enclosing copy of one addressed to you by the Officer administering the Government of Newfoundland, relating to the negotiations contemplated in view of the expiration of the temporary arrangement with the United States Government respecting the fisheries.

I have, &c.,

(Sd.)

FRED. STANLEY.

His Excellency

THE GOVERNOR GENERAL.

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No. 21.

*Governor General to Administrator, Newfoundland.*

OTTAWA, 20th November, 1885.

SIR,—With reference to your despatch of the 21st September last, and previous correspondence relative to the suggestion of my Government that the Government of Newfoundland should send a delegate to Ottawa to confer with them upon the subject of a new fisheries arrangement between the United States, Canada and Newfoundland.

I have the honour to forward herewith a copy of an approved report of a Committee of the Privy Council embodying the opinion of my Ministers, "that the views of the respective Governments can be much more satisfactorily exchanged by the Government of Newfoundland sending a delegation to Ottawa for that purpose, than by correspondence," and expressing the hope that it may be found convenient to send such a delegation at an early date.

I have, &c.,

(Sd.)

LANSDOWNE.

The Officer

ADMINISTERING THE GOVERNMENT OF NEWFOUNDLAND.

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[Enclosure No. 1.]

*REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 11th November, 1885.*

The Committee of the Privy Council have had under consideration a despatch dated 21st September, 1885, from the Administrator of the Government of Newfoundland on the subject of that Colony sending a delegate to confer with the Government of the Dominion respecting

a new fisheries arrangement between the United States, Canada and Newfoundland, and setting forth that in view of the number of the Executive Council of Newfoundland being reduced to four members and the early approach of a general election, that Government did not feel itself in a position to send a delegate to Canada or to offer any definite expression of the views of the Colony on the important subject in question, and requesting that any further proceedings on the part of the Dominion Government be deferred until the result of the approaching election be determined, and intimating its desire to be favoured with the views of the Dominion Government.

The Minister of Marine and Fisheries, to whom the despatch was referred, recommends that in view of the important question to be considered, and the wide range any discussion with reference thereto may take, the Government of Newfoundland be informed that the Dominion Government is of the opinion that the views of the respective Governments can be much more satisfactorily exchanged by the Government of Newfoundland sending a delegation to Ottawa for that purpose than by correspondence, and to express the hope that it may be convenient for that Government to send such delegation at an early day to confer with Your Excellency's Government on the subject to which the despatch under consideration refers.

The Committee concur in the recommendation of the Minister of Marine and Fisheries and they advise that Your Excellency be moved to transmit a copy of this Minute, if approved, to the Administrator of the Government of Newfoundland.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
*Clerk, Privy Council.*

No. 22.

*Governor General to Secretary of State.*

OTTAWA, 23rd November, 1885.

SIR,—With reference to previous correspondence relating to the anticipated negotiations on the termination of the temporary arrangement with the United States as to the fisheries, I have the honour to forward herewith for your information a copy of an approved report of a Committee of the Privy Council expressing the desire of my Ministers that the Government of Newfoundland should send a delegation to Ottawa at an early day for the purpose of conferring with the Government of the Dominion on the subject in question.

I have sent a copy of this minute of Council to the officer administering the Government of Newfoundland.

I have, &c.,  
(Sd.) LANSLOWNE.

The Right Honourable  
THE SECRETARY OF STATE FOR THE COLONIES.

No. 23.

*Minister at Washington to Governor General.*

WASHINGTON, 16th January, 1886.

MY LORD,—I have the honour to enclose to Your Excellency herewith copies of a joint resolution introduced into the House of Representatives for a renewal of commercial relations with the British possessions in North America which has been referred to the Committee on Foreign Affairs, as well as copies of a joint resolution relating to reciprocal privileges under the Act of 19th June, 1878, regarding com-

mercial relations with the Dominion of Canada, also referred to the Committee on Foreign Affairs.

I have, &c.,

(Sd.)

L. S. S. WEST.

His Excellency

THE GOVERNOR GENERAL.

[Enclosure No. 1]

49TH CONGRESS, 1ST SESSION, H. RES. 39.

IN THE HOUSE OF REPRESENTATIVES.

January 5, 1886.

Read twice, referred to the Committee on Foreign Affairs, and ordered to be printed.  
Mr. MAYBURY introduced the following joint resolution:

JOINT RESOLUTION

Requesting the Secretary of State to report to Congress the action of the Government under the provisions of an Act approved June nineteenth, eighteen hundred and seventy eight, relative to commercial relations with the Dominion of Canada.

Whereas under laws and regulations now in force in the Dominion of Canada all United States vessels are prohibited from rendering aid to wrecked or disabled vessels in Canadian waters; and

Whereas by an Act of Congress approved June nineteenth, eighteen hundred and seventy-eight, Canadian vessels of all descriptions were to be permitted to render aid to Canadian or other vessels wrecked or disabled in the waters of the United States contiguous to the Dominion of Canada, said Act to take effect by its terms when by proclamation of the President it was declared that reciprocal privileges had been extended by the Dominion of Canada to vessels of the United States wrecked in Canadian waters; and

Whereas no proclamation of the President as contemplated in the Act aforesaid has yet been promulgated, and the commerce of the United States, especially upon the lakes and rivers of the North-West, suffers great and irreparable injury by the refusal or neglect of the Government of the Dominion of Canada to extend the reasonable comity of privileges sought in the Act aforesaid: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of State be, and he is hereby, requested to report to Congress at his earliest convenience what action, if any, has been taken by the Government of the United States to acquaint the Government of the Dominion aforesaid with its desire for the friendly and equitable relations sought under the Act aforesaid, and what action if any, has been taken by the Dominion Government in the premises.

Sec. 2. That should it appear that the Government of the Dominion of Canada has neglected or refused to extend to vessels of the United States the privileges sought to be conferred on vessels of the Dominion under the Act, the Secretary of State be requested to report to Congress what further legislation, if any, is necessary or desirable, retaliatory or otherwise, to the end that our commerce may be released from its grievous burdens.

[Enclosure No. 2.]

49TH CONGRESS, 1ST SESSION, H. RES. 40.

IN THE HOUSE OF REPRESENTATIVES.

January 5, 1886.

Read twice, referred to the Committee on Foreign Affairs, and ordered to be printed.  
Mr. MAYBURY introduced the following joint resolution:—

JOINT RESOLUTION

For renewal of commercial relations with the British Possessions in North America.

Whereas the reciprocity treaty with Great Britain regulating commerce and navigation between the United States and the British Colonies of North America was terminated on

March the seventeenth, anno Domini eighteen hundred and sixty-six, in virtue of previous notice given by the United States; and

Whereas the provisions of said treaty providing for mutual rights in certain sea-fisheries, and for the free navigation of the Great Lakes, the River Saint Lawrence, and the canals connected therewith, were restored in eighteen hundred and seventy one, by the treaty of Washington, so called; and

Whereas the circumstances under which the notice of the abrogation of said treaty of reciprocity was made have been changed and modified by time, and unfettered trade and commerce between the British Possessions in North America and the United States would now be reciprocally beneficial, advantageous and satisfactory: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Congress would look with favour and approval upon any action taken by the executive department of the Government tending to a renewal of commercial relations with the British Possessions in North America by compact or treaty, having in view the reciprocal interests of both nations.

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No. 24.

*Governor General to Colonel Stanley.*

OTTAWA, 26th January, 1886.

SIR,—I have the honour to forward herewith for your information a copy of a despatch which I have received from Her Majesty's Minister at Washington, enclosing copies of joint resolutions introduced into the United States House of Representatives relating to commercial relations and reciprocal privileges between Canada and that country.

I have communicated a copy of Sir L. S. S. West's despatch and of the joint resolutions to my Government.

I have, &c.,  
(Sd.) LANSDOWNE.

The Right Honourable  
F. A. STANLEY.

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No. 25.

*Lord Lansdowne to Sir L. West.*

6th February, 1886.

I should be glad to have any information you can give me as to the consequences of the report on reciprocity of the Senate Foreign Relations Committee.

(Sd.) LANSDOWNE.

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No. 26.

*Sir L. West to Lord Lansdowne.*

8th February, 1886.

No commission will be issued.

(Sd.) WEST.

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No. 27.

*The Governor General to Earl Granville.*

OTTAWA, 3rd March, 1886.

MY LORD,—With reference to my despatch of the 18th ultimo in which I pointed out that effectual measures would be taken by my Government to protect Canadian

fishermen in the exercise of their rights within the territorial waters of the Dominion, and to prevent trespass within the limits of those waters by foreign fishermen, I have to acquaint Your Lordship that authority has now been requested by my Minister of Marine and Fisheries to establish a sufficient marine police force for the purpose of affording efficient protection to the interests of the Dominion within its territorial waters.

2 With this object my Government have determined, besides making use of the Government steamers already available for that purpose, to charter and equip six swift sailing fore and aft schooners between 60 and 90 tons measurement, for use as fisheries police vessels. For this purpose \$50,000 will be placed in the supplementary estimates to be submitted to Parliament for the current fiscal year, and a further sum of \$100,000 for the fiscal year ending 30th June, 1887.

I have, &c.,

(Sd.) LANSDOWNE.

EARL GRANVILLE.

No. 28.

*Minister at Washington, to Governor General.*

WASHINGTON, 19th March, 1886.

MY LORD,—I have the honour to report to Your Excellency that at an interview which I had this day with the Secretary of State, I placed in his hands a memorandum, copy of which is enclosed, embodying the view taken by Your Excellency's Government as expressed to me of the actual position of the Dominion Government under the Treaty of 1818 with regard to the exclusive right of fishery in Canadian waters. I called Mr. Bayard's attention to the fact, as stated in the memorandum, that the British North American Act, which came into operation in 1867, and in which the legislative authority of the Federal and Provincial Legislatures is defined, gives to the Parliament of the Dominion exclusive legislative authority over sea coast and inland fisheries, and also to the power taken under the Act 31 Vic., chap. 61, to grant to foreign vessels license to fish for, take, dry or cure fish of any kind within the three-mile limit in British waters; suggesting to him at the same time that all danger of "friction" might perhaps be avoided if it was clearly understood that no American vessel would be allowed to fish in Canadian waters within the three mile limit without a license as provided for under this Act. At Mr. Bayard's request I sent him the volumes of the State Papers containing the Act in question as well as the amending Acts of 1870 and 1871.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency

THE MARQUIS OF LANDSDOWNE, G.C.M.G.

[Enclosure No. 1.]

*Memorandum.*

The exclusive right of fishing in the territorial waters of the British possessions in North America now reverts as it did on the termination of the Treaty of 1854 to the British Crown.

The consequences which were then to be anticipated from the denunciation of that Treaty must now arise from the abrogation of the Fishery clauses of the Treaty of 1871.

Her Majesty's Government have, however, the satisfaction of feeling that they have done their utmost to prevent these consequences.

They have declared their readiness to meet the suggestion made by the President in his message to Congress for the appointment of a Fishery Commission, and even to enter into new engagements by which the privileges hitherto enjoyed by American citizens might still be secured to them, but Congress has declined their overtures and the Dominion Government is therefore bound to take effective measures for the protection of the fishery interests within the territorial waters of Canada.

The British North American Act came into operation in 1867 and gives to the Parliament of the Dominion exclusive legislative authority over the sea coast and inland fisheries, and accordingly an Act was passed by the Dominion Government in 1868 which deals with foreign vessels fishing in the waters of the Dominion and upon the provisions of which the Dominion Government will now act in regard to them.

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No. 29.

*Minister at Washington, to Governor General.*

WASHINGTON, 20th March, 1886.

MY LORD,—I have the honour to inform Your Excellency that I received on the 18th instant, a telegram from the Earl of Rosebery, instructing me to ascertain whether it is intended to issue a notice that American fishermen are now precluded from fishing in British North American territorial waters, in view of the issue of a similar notice with regard to British fishermen in American waters on the part of Her Majesty's Government.

After having spoken to Mr. Bayard on the subject, I addressed a note to him at his request, copy of which is enclosed, in the sense of Lord Rosebery's telegram, to which he promised me a speedy answer.

In the meanwhile a notice, which I enclose, has appeared in a Washington evening paper, stating that the Department of Fisheries has already issued such notice.

I have, &c.,

(Sd.)

L. S. SACKVILLE WEST.

His Excellency

THE MARQUIS OF LANSDOWNE, G. C. M. G.

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[Enclosure No. 1]

*From Minister at Washington to Mr. Bayard.*

WASHINGTON, 19th March, 1886.

SIR,—I have the honour to inform you that the Earl of Rosebery has requested me to ascertain whether it is intended to give notice to the United States' fishermen that they are precluded from fishing in British North American territorial waters, as Her Majesty's Government are considering the expediency of issuing a reciprocal notice with regard to British fishermen in American waters.

I have, &c.,

(Sd.)

L. S. S. WEST.

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[Enclosure No. 2]

*Extract from Washington "Evening Star," 20th March, 1886.*

"A CANADIAN STEAMER'S SECRET MISSION."

ST. JOHN, N.B., 20th March.

"Captain Scott, commander of the Government steamer 'Lansdowne' received sailing orders yesterday and will sail from here this morning. The destination of the steamer and the plan of action are carefully concealed. She has a month's supplies and full armament. By direction of the Department of Fisheries, Captain Scott has issued a warning to American fishermen to observe the provisions of the Treaty of 1818."

No. 30.

*From Minister at Washington to Governor General.*

WASHINGTON, 24th March, 1886.

MY LORD,—With reference to my despatch No. 23 of the 20th instant I have the honour to enclose to Your Lordship, herewith, the copy of a note which I have received from the Secretary of State informing me that as full and formal public notification in the premises has already been given by the president's Proclamation of the 31st of January, 1885, it is not deemed necessary to repeat it.

I have, &amp;c.,

L. S. SACKVILLE WEST,

His Excellency

THE GOVERNOR GENERAL.

[Enclosure No. 1.]

*From Mr. Bayard to Sir Lionel Sackville West.*

DEPARTMENT OF STATE,

WASHINGTON, 28th March, 1886.

SIR,—I have the honour to acknowledge the receipt of your note of the 19th instant, whereby you inform me that you have been requested by the Earl of Rosebery to ascertain "whether it is intended to give notice to the United States' fishermen that they are now precluded from fishing in British North American territorial waters," and to inform you in reply that as full and formal public notification in the premises has already been given by the President's proclamation of 31st January, 1885, it is not deemed necessary now to repeat it.

The temporary arrangement made between us on the 22nd of June, 1885, whereby certain fishing operations on the respective coasts were not to be interfered with during the fishing season of 1885, notwithstanding the abrogation of the Fishery Articles of the Treaty of Washington came to an end under its own expressed limitations on the 31st of December last, and the fisheries question is now understood to rest on existing treaties precisely as though no fishery articles had been incorporated in the Treaty of Washington.

In view of the enduring nature and important extent of the right secured to American fishermen in British North American territorial waters under the provisions of the Treaty of 1818, to take fish within the three-mile limit on certain defined parts of the British North American coasts and to dry and cure fish there under certain conditions, this Government has not found it necessary to give to United States' fishermen any notification that "they are now precluded from fishing in British North American territorial waters."

I have, &amp;c.,

(Sd) T. F. BAYARD.

Sir L. S. SACKVILLE WEST, K.C.M.G.,  
&c., &c., &c.

No. 31.

*Governor-General to Minister at Washington.*

OTTAWA, 24th March, 1886.

SIR,—I have the honour to acknowledge receipt of your despatch No. 20, of the 19th inst. enclosing a memorandum, recently handed by you to the Secretary of State, upon the subject of the position of the Dominion Government under the Treaty of 1818 in regard to the exclusive right of fishing in Canadian waters.

The memorandum is in accordance with the views of my Government upon this subject.

I have, &amp;c.,

(Sd.) LANSDOWNE.

The Honourable

SIR L. S. SACKVILLE WEST.

No. 32.

*Governor General to Earl Granville.*CANADA, GOVERNMENT HOUSE,  
OTTAWA, 24th March, 1886.

MY LORD,—With reference to previous correspondence relating to the position created by the expiration of the fishery clauses of the Treaty of Washington, I have the honour to forward herewith for your Lordship's information a copy of a despatch which I have received from Sir Lionel Sackville West, enclosing a copy of a memorandum on this subject which he placed in the hands of the United States' Secretary on the 19th inst.

No. 28; enc. of a despatch which I have received from Sir Lionel Sackville West,  
No. 1 of No. 28. enclosing a copy of a memorandum on this subject which he placed in the hands of the United States' Secretary on the 19th inst.

No. 31. I also enclose a copy of the reply which I have sent to Sir L. Sackville West.

I have, &c.,  
(Sd.) LANSDOWNE.

The Right Honourable,  
EARL GRANVILLE, K.G., &c.

No. 33.

*Governor General to Earl Granville.*

OTTAWA, 25th March, 1886.

MY LORD,—I have the honour to forward for your information a copy of the instructions which have been issued by my Minister of Marine and Fisheries for the guidance of fishery officers and *ex officio* magistrates in command of the vessels which will be employed for the protection of the inshore fisheries of the Dominion.

These instructions are substantially the same as those which were issued under similar circumstances in 1870.

Your Lordship will observe that while the officers in command of the fisheries police vessels are required to take the necessary steps for strictly upholding the Treaty rights of the Dominion they are specially enjoined to carry out their instructions in a conciliatory spirit and with forbearance and discrimination.

I also enclose copy of a warning notice which was published in reference to the same subject by the Department of Fisheries.

I have, &c.,  
(Sd.) LANSDOWNE.

The Right Honourable,  
EARL GRANVILLE, K.G., &c.

[Enclosure No. 1.]

SPECIAL INSTRUCTIONS to Fishery Officers, *ex-officio* Magistrates, in command of Government Steamers and Vessels, engaged as Fisheries Police Vessels, in protecting the Inshore Fisheries of Canada.

OTTAWA, 16th March, 1886.

SIR,—In the performance of the special and important service to which you have been appointed you will be guided by the following confidential instructions.

For convenience of reference, these have been divided under the different headings of *Powers, Jurisdiction, Duties and General Directions.*

## POWERS.

The Powers with which you are invested, are derived from, and to be exercised in accordance with the following statutes, among others:—"The Fisheries Act" (31 Vic., cap. 60, of Canada); "An Act respecting Fishing by Foreign Vessels," (31 Vic. cap. 61, of Canada),

and the subsequent statute entitled: "An Act to amend the Act respecting Fishing by Foreign Vessels," made and passed the 12th May, 1870 (33 Vic., cap. 15, of Canada); also an "Act to further amend the said Act" (34 Vic., cap. 23, of Canada).

"Chapter 94 of the Revised Statutes (third series) of Nova Scotia" (of the "Coast and Deep Sea Fisheries"), amended by the Act entitled: "An Act to amend Cap. 94 of the Revised Statutes of Nova Scotia" (29 Vic., cap. 35).

An Act passed by the Legislature of the Province of New Brunswick entitled: "An Act relating to the Coast Fisheries, and for the prevention of Illicit Trade" (16 Vic., cap. 69).

Also an Act passed by the Legislature of Prince Edward Island (6 Vic., cap. 14) entitled: "An Act relating to the Fisheries, and for the prevention of Illicit Trade in Prince Edward Island, and the coasts and harbors thereof."

Also from such regulations as have been passed or may be passed by the Governor General in Council, or from instructions from the Department of Fisheries, under "The Fisheries Act," hereinbefore cited.

As Fishery Officer you have full authority to compel the observance of the requirements of the *Fisheries Acts* and regulations by foreign fishing vessels and fishermen in those parts of the coasts of Canada to which, by the Convention of 1818, they are admitted to privileges of taking or drying and curing fish concurrent with those enjoyed by British fishing vessels and fishermen.

You will receive instructions from the Customs Department authorizing you to act as an officer of the Customs, and in that capacity you are to see that the Revenue Laws and Regulations are duly observed.

#### JURISDICTION.

Your jurisdiction with respect to any action you may take against foreign fishing vessels and citizens engaged in fishing is to be exercised only within the limits of "three marine miles" of any of "the coasts, bays, creeks or harbours," of Canada.

With regard to the Magdalen Islands, although the liberty to land and to dry and cure fish there is not expressly given by the terms of the convention to United States fishermen, it is not at present intended to exclude them from these islands.

#### DUTIES.

It will be your duty to protect the inshore fisheries of Canada in accordance with the conditions laid down by the Convention of the 20th October, 1818, the first Article of which provides:—

"Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks, of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties, that the inhabitants of the said United States shall have, forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind, on that part of the Southern Coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the Western and Northern Coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the Southern Coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbours and creeks, of the Southern part of the Coast of Newfoundland, hereabove described, and of the Coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground."

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours, for the purpose of shelter and repairing of damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

By this you will observe, United States fishermen are secured the liberty of taking fish on the Southern Coasts of Labrador, and around the Magdalen Islands and of drying and curing fish along certain of the Southern Shores of Labrador, where this coast is unsettled, or if settled, after previous agreement with the settlers or owners of the ground.

In all other parts the exclusion of foreign vessels and boats is absolute, so far as fishing is concerned, and is to be enforced within the limits laid down by the Convention of 1818, they being allowed to enter bays and harbours for four purposes only, viz.,—*for shelter, the repairing of damages, the purchasing of wood, and to obtain water.*

You are to compel, if necessary, the maintenance of peace and good order by foreign fishermen pursuing their calling and enjoying concurrent privileges of fishing or curing fish with British fishermen, in those parts to which they are admitted by the Treaty of 1818.

You are to see that they obey the laws of the country, that they do not molest British fishermen in the pursuit of their calling and that they observe the regulations of the fishery laws in every respect.

You are to prevent foreign fishing vessels and boats which enter bays and harbours for the four legal purposes above mentioned, from taking advantage thereof, to take, dry, or cure fish therein, to purchase bait, ice, or supplies, or to tranship cargoes, or from transacting any business in connection with their fishing operations.

It is not desired that you should put a narrow construction on the term "unsettled." Places containing a few isolated houses might not, in some instances, be susceptible of being considered as "settled" within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation and circumstances of the settlement. Private and proprietary rights form an element in the consideration of this point. *The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the wish of Her Majesty's Government that the rights of exclusion should not be strained,* must influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

Should interference with the pursuits of British fishermen or the property of Canadians appear to be inseparable from the exercise of such indulgence, you will withhold it and insist upon entire exclusion.

United States fishermen should be made aware that, in addition to being obliged, in common with those subjects of Her Majesty with whom they exercise concurrent privileges of fishing in Colonial waters, to obey the laws of the country, and particularly such Acts and Regulations as exist to ensure the peaceable and profitable enjoyment of the fisheries by all persons entitled thereto, they are peculiarly bound to preserve peace and order in the *quasi* settled places to which, by the liberal disposition of Canadian authorities, they may be admitted.

Wheresoever foreigners may fish in Canadian waters, you will compel them to observe the Fishery Laws. Particular attention should be directed to the injury which results from cleaning fish on board their vessels while afloat, and the throwing overboard of offals, thus fouling the fishing, feeding and breeding grounds. "The Fisheries Act" (Section 14) provides a heavy penalty for this offence.

Take occasion to enquire into and report upon any modes of fishing, or any practices adopted by foreign fishermen, which appear to be injurious to the fisheries.

#### GENERAL DIRECTIONS.

You will accost every foreign fishing vessel within the limits described, and if that vessel should be either fishing, preparing to fish, or should obviously have been fishing within the prohibited limits, you will, by virtue of the authority conferred upon you by your Commission, and under the provisions of the Acts above recited, seize at once (resort to force in doing so being only justifiable after every other effort has failed) any vessel detected in violating the law and send her or take her into port for condemnation.

Copies of the Acts of Parliament subjecting to seizure and forfeiture any foreign ship, vessel or boat which should be either fishing, preparing to fish or should obviously have been fishing within the prohibited limits, and providing for carrying out the seizure and forfeiture are furnished herewith for your information and distribution.

Should you have the occasion to compel any foreign fishing vessels or fishermen to conform to the requirements of the "Fisheries Act and Regulations," as regards the modes and incidents of fishing, at those places to which they are admitted under the Convention of 1818, particularly in relation to ballast, fish offals, setting of nets, hauling of seines, and use of "trawls" or "bultows," more especially at and around the Magdalen Island, your power and authority under such cases will be similar to that of any other fishery officer appointed to enforce the Fishery Laws in Canadian waters (*Vide Fisheries Act*).

If a foreign ship, vessel, or boat be found violating the Convention or resisting consequent seizure, and momentarily effects her escape from the vicinity of her capture or elsewhere, she remains always liable to seizure and detention if met by yourself in Canadian waters, and in British waters everywhere if brought to account by Her Majesty's cruisers. But great care must be taken to make certain of the identity of any offending vessel to be so dealt with.

All vessels seized must be placed, as soon as possible, in the custody of the nearest Customs Collector, and information, with a statement of the facts, and the depositions of your sailing master, clerk, lieutenant, or mate, and of two at least of the most reliable of your crew be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the violation of the law took place, and the ship, vessel or boat was seized. Also corroborate the bearings taken, by soundings, and by buoying the place (if possible) with a view to actual measurement, and make such incidental reference to conspicuous points and land marks as shall place beyond doubt the illegal position of the seized ship, vessel or boat.

Omit no precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it is possible that foreign fishing craft may be driven into Canadian waters by violent or contrary winds, by strong tides, through misadventure, or some other cause independent of the will of the master and crew, you will consider these circumstances, and satisfy yourself with regard thereto before taking the extreme step of seizing or detaining any vessel.

On capture, it will be desirable to take part of the foreign crew aboard the vessel under your command, and place some of your own crew, as a measure of precaution, on board the seized vessel; first lowering the foreign flag borne at the time of capture. If your ordinary complement of men does not admit of this being done, or if because of several seizures the number of your hands might be too much reduced, you will in such emergency endeavour to engage a few trustworthy men. The portion of foreign crew taken on board the Government vessel you will land at the nearest place where a Consul of the United States is situated, or where the readiest conveyance to any American Consulate in Canada may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations or in port are met with, you should, if circumstances permit, go on board and confer with the Naval Commander, and receive any suggestions he may feel disposed to give, which do not conflict with these instructions, and afford him any information you may possess about the movements of foreign craft; also inform him what vessels you have accosted and where.

Do not fail to make a full entry of all circumstances connected with foreign fishing vessels, noting their names, tonnage, ownership, crew, port, place of fishing, cargo, voyage, and destination, and (if ascertainable) their catch. Report your proceedings as often as possible, and keep the Department fully advised on every opportunity, where instructions would most probably reach you at stated intervals.

Directions as to the stations and limits on which you are to cruise, and any further instructions that may be deemed necessary, will from time to time be conveyed to you.

Considerable inconvenience is caused by Canadian fishing vessels neglecting to show their colours. You will draw the attention of masters to this fact, and request them to hoist their colours without requiring to be hailed and boarded.

It cannot be too strongly urged upon you, nor can you too earnestly impress upon the officers and crew under your command, that the service in which you and they are engaged should be performed with forbearance and discrimination.

The Government relies on your prudence, discretion and firmness in the performance of the special duties entrusted to you.

I am, Sir,

Your obedient servant,

(Sd.) GEORGE E. FOSTER,  
*Minister of Marine and Fisheries.*

[Enclosure No. 2.]

#### WARNING.—TO ALL WHOM IT MAY CONCERN.

The Government of the United States having by notice terminated Articles 18 to 25, both inclusive, and Article 30, known as the Fishery Articles of the Washington Treaty, attention is called to the following provision of the Convention between the United States and Great Britain, signed at London, on the 20th October, 1818:—

Article 1st. "Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry and cure fish, on certain coasts, bays, harbours and creeks of His Britannic Majesty's Dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau

Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground."

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry or cure fish, on or within three marine miles, of any of the coasts, bays, creeks or harbours of His Britannic Majesty's Dominions in America, not included within the above mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the Act of the Parliament of Canada, Cap. 61, of the Acts of 1868, intituled: "An Act respecting fishing by foreign vessels."

2nd. "Any commissioned officer of Her Majesty's Navy, serving on board of any vessel of Her Majesty's Navy, cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's Navy, Fishery Officer, or Stipendiary Magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries or any officer of the Customs of Canada, Sheriff, Magistrate or other person duly commissioned for that purpose, may go on board of any ship, vessel or boat, within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creek or harbours in Canada, and stay on board so long as she may remain within such place or distance."

3rd. "If such ship, vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering for twenty-four hours after the Master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel or boat into port and search her cargo, and may also examine the Master upon oath touching the cargo and voyage; and if the Master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and if such ship, vessel or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks or harbours of Canada, not included within the above mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel or boat, under the first section of this Act, such ship, vessel or boat, and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited."

4th. "All goods, ships, vessels and boats, and the tackle, rigging, apparel, furniture, stores and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years."

Therefore be it known, that by virtue of the Treaty Provisions and Act of Parliament, above recited, all foreign vessels, or boats, are forbidden from fishing or taking fish by any means whatever within three marine miles of any of the coasts, bays, creeks and harbors in Canada, or to enter such bays, harbors and creeks, except for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever; of all of which you will take notice and govern yourself accordingly.

(Sd.)

GEORGE E. FOSTER,  
*Minister of Marine and Fisheries.*

DEPARTMENT OF FISHERIES,  
OTTAWA, 5th March, 1886.

[Enclosure No. 3.]

Circular No. 371.

CUSTOMS DEPARTMENT,

OTTAWA, 7th May, 1886.

SIR,—The Government of the United States having by notice terminated Articles 18 to 25, both inclusive, and Article 30, known as the Fishery Articles of the Washington Treaty, attention is called to the following provision of the Convention between the United States and Great Britain, signed at London, on the 20th October, 1818 :—

Article 1st. "Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry and cure fish, on certain coasts, bays, harbours and creeks, of His Britannic Majesty's Dominion, in America, it is agreed between the high Contracting Parties, that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the Southern coast of Newfoundland which extends from Cape Ray to the Rameau Island, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland here above described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground."

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish, on or within three marine miles, of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America, not included within the above mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the Act of the Parliament of Canada, Cap. 61, of the Acts of 1868, intituled: "An Act respecting fishing by foreign vessels."

2nd. "Any commissioned officer of Her Majesty's Navy, serving on board of any vessel of Her Majesty's Navy, cruising and being in the waters of Canada for the purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's Navy, Fishery Officer, or Stipendiary Magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries or any officer of the Customs of Canada, Sheriff, Magistrate or other person duly commissioned for that purpose, may go on board of any ship, vessel or boat, within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creek or harbours in Canada, and stay on board so long as she may remain within such place or distance."

3rd. "If such ship, vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and if such ship, vessel or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks or harbours of Canada, not included within the above mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel or boat under the first section of this Act, such ship, vessel or boat, and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited."

4th. "All goods, ships, vessels and boats, and the tackle, rigging, apparel, furniture, stores and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years."

Having reference to the above, you are requested to furnish any foreign fishing vessels, boats or fishermen found within three marine miles of the shore, within your district, for other purposes than those of shelter and of repairing damages, of purchasing wood and of obtaining water, with a printed copy of the warning enclosed herewith. If such vessel or boat is found fishing, preparing to fish, or violating the provisions of the Convention of 1818, by shipping men or supplies or trading, or if hovering within the three-mile limit, does not depart within twenty-four hours after receiving such warning, you will place an officer on board of such vessel, and at once telegraph the facts to the Fisheries Department at Ottawa, and await instructions.

Enclosure  
No. 2 of  
No. 33.

(Sd.) J. JOHNSON,  
*Commissioner of Customs.*

[Enclosure No. 4.]

## APPENDIX TO CIRCULAR NO. 371.

CUSTOMS DEPARTMENT, OTTAWA, July 12th, 1886.

SIR,—In order to avoid any misinterpretation of the concluding paragraph of my circular No. 371, dated 7th May last, you will substitute the following therefor:—

If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or to be preparing to fish, within three marine miles of the shore within your district, you will please place an officer in charge thereof, and at once telegraph the facts to the Fisheries Department at Ottawa and await instructions.

To any foreign fishing vessels, boats or fishermen who may come within three marine miles of the shore of your district (but not fishing, preparing to fish, or having fished within such limit) you are requested to furnish a copy of the "Warning," and if any such vessel or boat shall not depart, within twenty-four hours after receiving such "Warning," even though such vessel or boat is not engaged in fishing, preparing to fish, or having fished within the three-mile limit, you will place an officer in charge thereof, and at once telegraph the facts as before mentioned; or if it be ascertained, subsequently to serving the "Warning," that any vessel or boat served therewith, has been fishing or preparing to fish before or after such service, you are not to allow the twenty-four hours to expire, but put an officer on board at once and act as directed.

(Sd.) J. JOHNSON,  
*Commissioner of Customs.*

No. 34.

*Governor General to Minister at Washington.*

OTTAWA, 25th March, 1886.

SIR,—I have the honour to acknowledge the receipt of your despatch No. 23 of the 20th March, relating to the issuing of notices to American and Canadian fishermen as to their exclusion from fishing in the territorial waters now closed to them by the expiration of the Fishery Articles of the Treaty of Washington.

The warning of which reference is made in the newspaper extract enclosed in that despatch is no doubt that of which I now forward a copy herewith for your information.

It will be within your knowledge that in 1870, a circular dated May 16, of that year, calling the attention of American fishermen to the restrictions imposed by Article I of the Convention of 1818, and to the Canadian Statutes affecting the inshore fisheries of the Dominion, was issued by the United States Government, and I am glad to learn from your despatch that the Secretary of State has now under his consideration the propriety of issuing a similar notice.

I take this opportunity of acquainting you that the Fisheries Department has issued instructions, of which a copy is also enclosed for the guidance of its officers employed in the protection of the inshore fisheries of this country.

Enc. No. 1  
of No. 33.

You will observe that these officers while directed to take all necessary steps for maintaining the Treaty rights of the Dominion are specially instructed to perform the duties entrusted to them with forbearance and discrimination.

I have, &c.

(Sd.)

LANSDOWNE.

SIR LIONEL S. SACKVILLE WEST, K.C.M.G.

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No. 35.

*Governor General to Minister at Washington.*

[No. 29.]

OTTAWA, 27th March, 1886.

SIR,—I had the honour of receiving from you a despatch No. 20, dated 19th March, 1886, enclosing copy of a memo. handed by you to the Secretary of State, and describing the position of my Government under the Treaty of 1818, in regard to the inshore fisheries of the Dominion, and I had the honour, on the 24th instant, of acknowledging receipt of that despatch and of informing you that the memorandum was in accordance with the views of my Government.

I understand from your despatch above referred to that after calling Mr. Bayard's attention to the Canadian statutes affecting this question, and more especially to the Act 31 Vic., cap. 61, under which the Governor is empowered to grant licenses to foreign vessels for a period not exceeding one year to fish within three marine miles of the coasts, bays, creeks or harbours of Canada not included in the limits specified in Article I of the Convention of 1818, you suggested to Mr. Bayard that "all danger of friction might perhaps be avoided if it was clearly understood that no American vessel would be allowed to fish in Canadian waters within the three-mile limit without a license."

A statement to the above effect might possibly be interpreted as a suggestion on the part of Her Majesty's Government that the system of granting licenses which obtained between the expiration of the Reciprocity Treaty of 1854 and the beginning of the year 1870 should be again resorted to, and I therefore take this opportunity of making you aware that in the opinion of my Government it would not be desirable that any such suggestion should be made.

It will be within your knowledge that while these licenses were taken out by a considerable number of American fishermen in the first two years during which the system of issuing licenses was in existence the practice of applying for them was almost entirely discontinued by American fishermen, although it was notorious that large numbers of their vessels frequented Canadian waters. The failure of the system was so complete and the embarrassment which it occasioned so serious that it was terminated by an Order in Council of the Dominion Government, dated 8th January, 1870, under which it was decided "that the system of granting licenses to foreign vessels under the Act 31 Vic., cap. 61, be discontinued and that henceforth foreign fishermen be not permitted to fish in the waters of Canada."

It was in consequence of this decision on the part of the Dominion Government that Mr. Boutwell's circular dated 16th May, 1870, was issued for the purpose of notifying to American fishermen the effect in regard to the inshore fisheries of the Dominion of the Convention of 1818 and the Canadian Act of 1868 respecting fishing by foreign vessels.

It would under the above circumstances clearly be undesirable that anything should be said which might produce on Mr. Bayard's mind the impression that it was now open to American fishermen to avail themselves of fishing licenses similar to

those issued between 1866 and 1869, or that a renewal of the system in force between those years would be acceptable to my Government.

I have, &c.,

(Sd.) LANSDOWNE.

The Honourable

Sir LIONEL S. SACKVILLE WEST, K.C.M.G.,  
&c., &c., &c.

—  
No. 36.

*Governor General to Earl Granville.*

OTTAWA, 29th March, 1886.

MY LORD,—In reference to my despatch of the 24th March, forwarding a copy of Sir Lionel West's despatch No. 20, of the 19th instant, I have the honour to enclose herewith copy of a further despatch, No. 29, No. 35. which I addressed on the 27th to Sir Lionel West, defining with more precision the position of my Government in regard to Clause I of the Act of 1868, 31 Vic., cap. 61, under which power is taken to grant licenses to foreign fishing vessels frequenting the territorial waters of the Dominion.

Although the terms of the memorandum handed to Mr. Bayard by Sir L. West, and enclosed to me in his despatch above referred to, were strictly in accordance with the views of my Government, it appeared to me that the concluding portion of the despatch enclosing the memorandum was so worded as to leave the impression that in Sir Lionel West's belief it was still open to American fishermen, at any moment, to apply for and obtain licenses to use the inshore fisheries of the Dominion.

Your Lordship is fully aware of the circumstances under which the issue of these licenses was discontinued by the Dominion Government in 1870, and I thought it desirable to explain to Sir L. West that, at the present time, my Government would not be disposed to depart from the decision at which it then arrived, or as at present advised, to regard with favour any suggestion for a return to the practice of granting licenses.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable

EARL GRANVILLE, K.G.

—  
No. 37.

*From Minister at Washington to Governor General.*

[No. 30.]

WASHINGTON, 29th March, 1886.

MY LORD,—I have the honour to inform Your Excellency that the American Consul General at Halifax is reported to have argued that there is nothing in the treaty of 1818 to prevent Americans having caught fish in deep water and cured them from landing them in a marketable condition at any Canadian port and transshipping them in bond to the United States, either by rail or vessel, and that moreover a refusal to permit the transportation would be a violation to the general bonding arrangement between the two countries.

I have, &c.,

(Sd.)

L. S. SACKVILLE WEST.

His Excellency

THE GOVERNOR GENERAL.

No. 38.

*Minister at Washington to Governor General.*

[No. 32.]

WASHINGTON, 30th March, 1886.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch No. 28, of the 25th instant, forwarding to me a copy of the "Warning" and of the instructions issued by the Department of Fisheries in consequence of the termination of the fishery articles of the Treaty of Washington.

I have, &amp;c.,

(Sd.)

L. S. SACKVILLE WEST.

His Excellency

THE GOVERNOR GENERAL.

No. 39.

*Governor General to Earl Granville.*

CANADA, GOVERNMENT HOUSE,

OTTAWA, 30th March, 1886.

[No. 38.]

MY LORD,—I have the honour to enclose herewith a certified copy of a report of the Committee of the Privy Council approved by me to-day recommending that a copy of the Order in Council passed on the 3rd instant, authorizing the establishment of a Fisheries Police Force, together with a copy of the special instructions approved by the Order in Council of the 25th instant, should be forwarded to Your Lordship for the information of Her Majesty's Government.

2. The special instructions above mentioned have already been forwarded by me for Your Lordship's information, and a copy of Order in Council of the 3rd instant is enclosed herewith. I have now only to call your attention to the concluding passage of the Order of this day's date, in which I am requested to submit to Her Majesty's Government the propriety of taking "such steps as are deemed necessary to sustain the Canadian Fisheries Police Vessels in the full enforcement of the provisions of the Convention of 1818."

3. I may state in explanation of the wishes of my Government, that while it fully recognizes that the duty of enforcing police regulations affecting the fisheries is one which belongs to the Canadian authorities, it believes that those regulations can be more effectually enforced and will command greater respect at the hands of those against whom they are directed if they are supported by the presence of one or more of Her Majesty's ships.

4. The mere fact of that presence would certainly be calculated to create the impression that in insisting upon its treaty rights the Dominion had the approval, and would, if occasion arose, command the assistance of Her Majesty's Government.

5. This consideration would deserve additional weight if, as is possible, the Government of the United States should send a ship or ships of war to cruise off the Canadian coast for the protection of American vessels fishing in these waters.

6. I have only to add that I believed it was the case that after the expiration of the Reciprocity Treaty of 1854 a similar request was made on the part of the Dominion Government and acceded to by that of Her Majesty.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Right Honourable

EARL GRANVILLE.

[Enclosure No. 1.]

P. C. No. 506.

REPORT of a Committee of the Honorable the Privy Council approved by His Excellency the Governor General in Council on the 30th March, 1886.

The Committee of the Privy Council, on the recommendation of the Minister of Marine and Fisheries advise that for the information of Her Majesty's Government, a copy of the Order in Council passed on the 3rd instant authorizing the establishment of a Fisheries Police Force for the protection of the Canadian Inshore Fisheries, be transmitted to the Colonial Secretary, as also a copy of the special instructions, &c., approved by Order in Council of 25th instant, to the end that having been advised of the action of the Canadian Government, Her Majesty's Government may take such steps as are deemed necessary to sustain the Canadian Fisheries Police Vessels in the full enforcement of the provisions of the Convention of 1818.

(Sd.) JOHN J. MCGEE,  
Clerk, Privy Council.

No. 40.

*Governor General to Earl Granville.*

[No. 92.]

OTTAWA, 31st March, 1886.

MY LORD,—I have the honour to forward herewith for your Lordship's information, copies of two despatches which I have received from Her Majesty's Minister at Washington, relating to the issuing of notices to American and Canadian fishermen as to their exclusion from fishing in the territorial waters, respectively closed to them by the expiration of the Fishery Articles of the Treaty of Washington.

2. Your Lordship will observe that in view of the formal notification in this connection, given in the President's proclamation of the 31st January, 1885, no further action is deemed necessary by the United States Government.

3. I also forward a copy of a despatch which I have addressed to  
No. 34. Sir Lionel West, enclosing for his information a copy of the confidential  
Enc. No. 2 instructions issued by the Fisheries Department to the officers employed  
of 33. in the protection of the Canadian inshore fisheries, and of the "warning"  
published by the Minister in consequence of the termination of the Fishery  
Articles of the Treaty of 1871. I have already sent Your Lordship copies  
of these papers in my despatch of the 25th instant.

I have, &c.,  
(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.,  
&c., &c., &c.

No. 41.

*Minister at Washington to Governor General.*

[No. 33.]

WASHINGTON, 31st March, 1886.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch No. 29, of the 27th instant, informing me that any suggestion for the renewal of the licensing system for American vessels fishing in Canadian waters, under the Treaty of 1818, and which was discontinued by the Order in Council of the 8th January, 1870, would not be acceptable to Your Excellency's Government, and that it was clearly undesirable that anything should be said which might produce upon Mr. Bayard's mind the impression that it is now open to American fishermen to avail themselves of fishing licenses similar to those issued between 1866 and 1869.

In order therefore to prevent any misunderstanding of the position taken by the Government of the Dominion as described in Your Excellency's above-mentioned despatch, and which your Excellency seems to think may arise from the language I used in conversation with Mr. Bayard, I sent to him a memorandum, copy of which I have the honour to enclose, based upon it and embodying the views expressed therein.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency

THE GOVERNOR GENERAL.

[Enclosure No. 1.]

MEMORANDUM.

In connection with the Dominion Fisheries Act, 1868 (31 Vic., cap. 61), and the issue of fishery licenses under it, communication was made to the United States Government in April, 1870, of an Order in Council of the Governor General to the following effect:—

"That the system of granting licenses to foreign vessels, under the Act 31 Vic., cap. 61, be *discontinued*, and that henceforth all foreign fishermen be prevented from fishing in the waters of Canada."

In consequence of this decision the Secretary of the Treasury issued the circular of the 16th May, 1870, notifying to American fishermen the effect, in regard to the inshore fisheries of the Dominion, of the Convention of 1818, and of the Canadian Act of 1868, respecting fishing by foreign vessels. The failure of the system of licenses was so complete, and the embarrassment which it occasioned so serious, that the Dominion Government are, under present circumstances, opposed to any suggestion for its renewal, and they point out that the Order in Council above referred to makes it clear that it is not now open to American fishermen to avail themselves of fishing licenses similar to those issued between the years 1866 and 1869.

WASHINGTON, 31st March, 1886.

No. 42.

*Minister at Washington to Governor General.*

[No. 34.]

WASHINGTON, 31st March, 1886.

MY LORD—With reference to Mr. Boutwell's circular of 16th May, 1870, alluded to in Your Excellency's Despatch No. 29 of the 27th instant, I have the honour to request Your Excellency to inform me whether Mr. Mitchell's report, dated Ottawa, 31st May, 1870, pointing out certain errors therein, is maintained by Your Excellency's Government.

I have, &c.,

(Sd.)

L. S. SACKVILLE WEST.

His Excellency

THE GOVERNOR GENERAL.

No. 43.

*Governor General to Earl Granville.*

[No. 107.]

OTTAWA, 6th April, 1886.

MY LORD,—I have the honour to enclose herewith copy of an approved Report of the Privy Council upon a despatch which I received on the 2nd instant, from Her Majesty's Minister at Washington (and of which a copy is herewith enclosed) informing me that the United States Consul General at Halifax, was reported to have argued that under the Convention of 1818 it was open to American fishermen to land,

No. 37.

cured in a marketable condition fish, which had been caught outside the three-mile limit, at any Canadian port, and to tranship the same in bond to the United States by rail or vessel, and that any refusal to permit such transshipment would be a violation of the general bonding arrangement between the two countries.

It does not appear from Sir L. West's despatch that this statement was made officially, or that it has been supported by the Government of the United States. As however, the matter is one to which further reference may be made, it is desirable that the views of my Government in regard to it should be placed on record.

The report of the Privy Council contains an explanation of the reasons for which, it is believed that under the terms of the Convention, American fishermen are absolutely excluded from admission to Canadian bays or harbours, except for the purposes of shelter and repairing damages therein, or of purchasing wood and obtaining water.

The arrangements in force between the two countries for the transshipment of goods in bond, arrangements which depend in the main upon the Customs laws of of the two countries cannot therefore be regarded as in any sense restricting the operation of the Convention. It should, moreover, be remembered that these bonding arrangements are the same as those which obtained between the two countries after the expiration of the Reciprocity Treaty of 1854, and I am not aware that between that date and the date of the Treaty of 1871, any claims such as those now made by the Consul General at Halifax, were preferred on the part of the United States Government.

Your Lordship will, however, clearly understand that although it is thought necessary to enforce strictly against American fishing vessels, a restriction which was framed with the express purpose of affording protection to the fisheries of the British Colonies, that restriction would not be applicable to vessels not themselves engaged in fishing, but visiting Canadian ports in the ordinary course of trade.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE.

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[Enclosure No. 1.]

*REPORT of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Governor-General in Council on the 6th April, 1886.*

The Committee of the Privy Council have had under consideration a despatch, dated the 29th March, 1886, from Her Majesty's Minister at Washington, informing Your Excellency that the United States' Consul General at Halifax was reported to have argued that there is nothing in the Convention of 1818 to prevent Americans, having caught fish in deep water and cured them, from landing them in a marketable condition at any Canadian port and transshipping them in bond to the United States either by rail or vessel, and that any refusal to permit such transshipment would be a violation of the general bonding arrangement between the two countries.

The Sub-Committee to whom the despatch in question was referred report that if the contention of the United States' Consul at Halifax is made in relation to American fishing-vessels, it is inconsistent with the Convention of 1818.

That they are of opinion, from the language of that Convention—"Provided, however, that the American fishermen shall be permitted to enter such bays or harbours for the purposes of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water and for no other purpose whatever"—that, under the terms of the Convention, United States' fishermen may properly be precluded from entering any harbour of the Dominion for the purpose of transshipping cargoes, and that it is not material to the question that such fishermen may have been engaged in fishing outside of the "3-mile limit" exclusively, or that the fish which they may desire to have transhipped have been taken outside of such limit.

That to deny the right of transshipment would not be a violation of the general bonding arrangement between the two countries.

That no bonding arrangement has been made which, to any extent, limits the operation of the Convention of 1818, and, inasmuch as the right to have access to the ports of what is now the Dominion of Canada for all other purposes than those named, is explicitly renounced by the Convention, it cannot with propriety be contended that the enforcement of the stipulation above cited is contrary to the general provisions upon which intercourse is conducted between the two countries.

Such exclusion could not, of course, be enforced against United States' vessels not engaged in fishing.

The Sub-Committee in stating this opinion are not unmindful of the fact that the responsibility of determining what is the true interpretation of a Treaty or Convention made by Her Majesty must remain with Her Majesty's Government, but in view of the necessity of protecting to the fullest extent the inshore fisheries of the Dominion according to the strict terms of the Convention of 1818, and in view of the failure of the United States' Government to accede to any arrangements for the mutual use of the inshore fisheries, the Sub-Committee recommend that the claim which is reported to have been set up by the United States' Consul-General at Halifax be resisted.

The Committee concur in the foregoing Report and Recommendation, and they respectfully submit the same for your Excellency's approval.

(Sd.) JOHN J. MCGEE,  
*Clerk, Privy Council for Canada.*

No. 44.

*Minister at Washington to Governor General.*

[No. 37.]

WASHINGTON, 6th April, 1886.

MY LORD,—I have the honour to enclose Your Excellency herewith a précis of a debate in the Senate on the fisheries question. The resolutions in the House of Representatives will be found in the Congressional Record (No. 83, pp. 3134 and debate 3157.)

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency  
THE GOVERNOR GENERAL.

[Enclosure No. 1.]

LOOKING TO WAR.

BRITISH CRUISERS TO PREY UPON AMERICAN FISHING VESSELS—GRAVE QUESTIONS OF INTERNATIONAL LAW.

During the debate in the Senate yesterday upon the Logan Bill to increase the efficiency of the army, Mr. Frye digressed to the subject of his resolution in relation to the fisheries. He regarded it as very important that that matter should be discussed and settled. It involved a matter, he said, that looked to war. He read resolutions of a fishing association, at Portland, Me., praying that the American Government send armed vessels to the fishing grounds to protect our fishing vessels, inasmuch as the Canadian government had forbidden American fishing vessels to enter Canadian ports, for any purpose except the merest purposes of shelter.

The minister of marine of Canada, Mr. Frye said, had issued a proclamation that no American vessel should be permitted to enter Canadian ports for the purpose of buying bait or shipping crews or landing fish for transportation across Canadian territory to places in the United States, and he understood that the Canadian government had fitted out their cruisers to prevent American fishing vessels from entering Canadian waters. Mr. Frye read two recent telegrams from the State Department, one asserting this right of Canadian vessels, and the other, dated the same day, saying the Department was just informed that American fishing vessels could only enter Canadian ports for shelter, or to repair damages, &c.

The State Department, Mr. Frye said, needed further education. He declared that we had a perfect right to enter Canadian ports for any purpose we pleased, except piracy. We

were not relegated to the Treaty of 1818, but were operating under the Treaty of 1849, and the proclamations issued thereunder. Our ships could go into Canadian ports to buy bait, or ship crews, or get ice, or flour just as Canadian vessels were to-day doing that very thing in Portland and Gloucester harbours, yet British cruisers were to prey on American fishing vessels as they had been preying on them for fifty years. Mr. Frye was only waiting for a single American vessel to be seized, then he proposed to introduce a Bill of less than ten lines closing the ports of the United States against all British colonial fishing, freighting and passenger vessels all along the line of the great lakes and the Atlantic coast, and we would then see how long Canada would carry on this operation that she had now entered on. To-day, Mr. Frye said, he will move to take up his fisheries resolution.

Mr. Morgan expressed his surprise that a discussion of the fisheries should be interjected into a discussion of the military Bill. He supposed Mr. Frye thought this a good opportunity to express his belligerent views. The question involved, Mr. Morgan said, was one of commerce and was capable of being handled without the intervention of an army or navy either. It involved grave questions of international law. He (Mr. Morgan) would avail himself of every power within the reach of the Government to maintain the slightest right of any American citizen against foreign interference. His views on the general topic coincided with those of Mr. Frye, but what was wanted was serious consideration after full information, which we did not have now. Mr. Morgan said he would endeavour to inform himself as to the position of the question, to ascertain whether there were any new facts of so alarming a character as to warrant the prognostications regarding the seizure of vessels indulged in by the Senator from Maine.

#### IN THE HOUSE.

Mr. Dingley, of Maine, introduced a resolution requesting the President to furnish the House with any information in his possession relative to the exclusion of American fishing vessels from the right to enter ports of entry of the Dominion of Canada for the purpose of trading, purchasing supplies, or loading fish caught in deep water for shipment in bond to the United States, or doing other acts which Canadian and other British vessels are freely permitted to do in ports of the United States, and also to inform the House what steps have been taken or are proposed to bring such unwarrantable acts of the Dominion authorities to the attention of the British Government.

#### No. 45.

#### *Governor General to Minister at Washington.*

[No. 43.]

OTTAWA, 7th April, 1886.

SIR,—I caused to be referred to my Government your despatch No. 30, of the 29th March, in which you informed me that the United States Consul General at Halifax was reported to have agued that there was nothing in the Convention of 1818 to prevent American fishermen from landing at any Canadian port, cured and in a marketable condition, fish which had been caught by them outside the territorial waters of this country and transshipping the same in bond to the United States by rail or otherwise, and that any refusal to permit such transportation would be a violation of the general bonding arrangements existing between the two countries.

I have now the honour to forward herewith for your information, copies of an approved report of a Committee of the Privy Council setting forth the views of my Government upon the point raised by the Consul General and of a despatch which I have sent to Earl Granville on the same subject.

I have, &c.,

(Sd.)

LANSDOWNE.

The Honourable  
SIR SACKVILLE WEST,  
Washington.

No. 46.

*Governor General to Earl Granville.*

OTTAWA, 7th April, 1886.

MY LORD,—In continuation of my despatch of the 29th ultimo, relating to the matter of licenses to foreign vessels to fish in Canadian territorial waters, I have the honour to forward herewith for Your Lordship's information, a copy of a despatch which I have received from Sir L. S. West, enclosing a memorandum upon the subject referred to which he has handed to Mr. Bayard.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE.

No. 47.

*Governor General to Earl Granville, K.G.*

[No. 109.]

OTTAWA, 7th April, 1886.

MY LORD,—I have the honour to forward herewith for Your Lordship's information, extracts from the debates of the Dominion House of Commons containing a report of a debate on a motion of the Honorable Peter Mitchell in reference to the Fisheries Police Force of Canada.

*Vide Hansard,*  
1st April 1886,  
page 481.

It will be within your knowledge that Mr. Mitchell was Dominion Minister of Marine and Fisheries between the years 1867 and 1874.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE.

No. 48.

*Governor General to Earl Granville, K.G.*

[No. 115.]

OTTAWA, 10th April, 1886.

MY LORD,—I have the honour to forward herewith for Your Lordship's information, a copy of a despatch which I have received from Her Majesty's Minister at Washington, enclosing a Précis of a Debate in the Senate on the Fisheries question.

No. 44.  
*Vide Congress-*  
*ional Record.*

I also enclose, for convenience of reference, extracts from the Congressional Record containing the Resolutions mentioned in Sir L. West's despatch.

I have communicated Sir L. West's despatch and its enclosure to my Ministers for their information.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE.

No. 49.

*From Minister at Washington to Governor General.*

[No. 39.]

WASHINGTON, 13th April, 1886.

MY LORD,—I have the honor to enclose to Your Excellency, herewith, copy of a resolution submitted to the House of Representatives on the Canadian Fishing regulations.

I have, &amp;c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency

THE GOVERNOR GENERAL.

[Enclosure No. 1:]

## CANADIAN FISHING REGULATIONS.

APRIL 5, 1886.—Referred to the Committee on Foreign Affairs and ordered to be printed.

Mr. DINGLEY submitted the following

## RESOLUTION :

Whereas the Minister of Marine of the Dominion of Canada has issued a proclamation directing the enforcement of an Act of the Dominion Parliament which prohibits any fishing vessels of the United States from entering any Dominion harbour except for the purpose of shelter, repairing damages, and purchasing wood and obtaining water ; and

Whereas press despatches announce that, under this proclamation, Dominion officers have denied to fishing vessels of the United States the right to enter ports of entry in said Dominion for the purpose of purchasing supplies, or landing fish caught in deep water for shipment in bond to the United States, or doing other acts which Canadian and other British vessels are freely permitted to do in ports of the United States ; and

Whereas these acts of the authorities of the Dominion of Canada are in contravention of the principles which regulate the intercourse of friendly civilized nations, and in direct conflict with a legislative arrangement between the Governments of the United States and Great Britain, which went into effect the first day of January, eighteen hundred and fifty, by which Great Britain in view of similar privileges conditionally conceded to her vessels by the United States, placed the vessels of the United States on the same footing in British ports, including British colonies, as that on which British vessels are placed in the ports of the United States, the coasting trade only excepted : Therefore,

*Resolved*, That the President be requested to furnish the House, if compatible with the public interests, with any information in his possession relative to the exclusion of American fishing vessels from the right to enter ports of entry of the Dominion of Canada for the purpose of trading, purchasing supplies, or landing fish caught in deep water for shipment in bond to the United States, or doing other acts which Canadian and other British vessels are freely permitted to do in ports of the United States ; and also to inform the House what steps have been taken or are proposed to bring such unwarrantable and unfriendly acts of the Dominion authorities to the attention of the British Government.

No. 50.

*Governor General to Minister at Washington.*

[No. 43.]

OTTAWA, 20th April, 1886.

SIR,—In reply to your despatch No. 34, of the 31st March last, asking to be informed whether Mr. Mitchell's report of the 31st May, 1876, pointing out certain errors in Mr. Boutwell's circular of 16th May, 1870, is maintained by my Government, I have the honour to enclose herewith for your information a copy of an

approved report of a Committee of the Privy Council containing the views of my Government upon the point referred to.

I have, &c.,

(Sd.)

LANSDOWNE.

The Honourable

Sir L. S. SACKVILLE WEST, K.C.M.G.,  
&c., &c., &c.

[Enclosure No. 1.]

P. C. No. 132 G.

*REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 15th April, 1886.*

The Committee of the Privy Council have had under consideration a despatch dated 31st March, 1886, from Her Majesty's Minister at Washington requesting information as to whether Mr. Mitchell's report dated Ottawa, 31st May, 1870, pointing out certain errors in Mr. Boutwell's circular of 16th May, 1870, is maintained by Your Excellency's Government.

The Minister of Marine and Fisheries to whom the despatch was referred submits that the above mentioned report of Mr. Mitchell was approved by His Excellency in Council, 7th June, 1870, and that a further memorandum upon the same subject and to the same effect, was, on the 14th June, 1870, submitted and approved by His Excellency in Council on 1st July, 1870.

The Committee recommend that Your Excellency be moved to inform Sir Lionel Sackville West that the views expressed in the Orders in Council referred to, are those still held by the Canadian Government, and the assurance is repeated that this Government has no intention of interfering in any way with the rights guaranteed to United States fishermen within the limits laid down by the Convention of 1818.

The Committee respectfully submit the same for Your Excellency's approval.

(Sd.)

JOHN J. MCGEE,  
*Clerk, Privy Council.*

No. 51.

*Governor General to Earl Granville, K. G.*

[No. 130.]

OTTAWA, 20th April, 1886.

MY LORD,—I have the honour to forward for Your Lordship's information a copy of a despatch which I have received from Her Majesty's Minister at Washington, asking to be informed whether my Government maintained Mr. Mitchell's report of the 31st May, 1870, on Mr. Boutwell's circular of 16th May of the same year relating to the fisheries.

I caused Sir L. West's despatch to be referred to my Ministers for consideration and I have the honour to enclose a copy of a despatch which I have addressed to Sir

No. 42. L. West, forwarding for his information a copy of an approved report of  
Enc. No. 1 of a Committee of the Privy Council, embodying the views of my Govern-  
No. 50. ment upon the point in question.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable

EARL GRANVILLE, K. G.

No. 52.

*From Governor General to Earl Granville.*

[No. 139.]

OTTAWA, 24th April, 1886.

MY LORD,—I have the honour to forward herewith for your Lordship's information a copy of a despatch which I have received from Her Majesty's Minister at Washington, enclosing copies of a Resolution submitted to the House of Representatives on the Canadian fishing regulations.

I have caused a copy of Sir L. West's despatch and its enclosure to be communicated to my Ministers for their information.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE., K. G.

No. 53.

*From Minister at Washington to Governor General.*

[No. 49.]

WASHINGTON, 29th April, 1886.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch No. 43, of the 20th instant, conveying to me the views of Your Excellency's Government, as expressed in the report of a Committee of the Privy Council which accompanied it, on Mr. Mitchell's report of 31st May, 1870.

I have, &amp;c.,

(Sd.)

L. S. SACKVILLE WEST.

His Excellency  
THE GOVERNOR GENERAL.

No. 54.

*From Governor General to Earl Granville.*

[No. 145.]

OTTAWA, 1st May, 1886.

MY LORD,—As I observed that some comments have been made in the London press upon the alleged detention of an American schooner at Baddeck, C.B., for violation of the fishery laws of the Dominion, it may be as well that I should submit to you the following statement of the facts of the case, with which I have been supplied by my Minister of Marine and Fisheries:—

On the evening of the 22nd of April the American schooner "Joseph Storey," Captain J. L. Anderson, of Gloucester, Mass., anchored off the harbour of Baddeck. On the following morning the Captain came ashore, bought some supplies, engaged a man, took him on board, and sailed without reporting to the Customs' authorities. The Collector at Baddeck, Mr. L. G. Campbell, upon this, telegraphed to the Sub-Collector at Bras d'Or, instructing him to detain the vessel, and at the same time reported his own action in the matter by telegram to the Minister of Customs.

In compliance with these instructions, the Sub-Collector at Bras d'Or detained the vessel, which proved to have clearance from St. Peter's to Aspy Bay on a trading voyage.

On the 24th of April the Minister of Customs telegraphed to Mr. Campbell, that the vessel should be allowed to proceed on condition that the man illegally shipped should be put on shore, the Captain being formally warned by the Collector not to repeat the offence.

Your Lordship will observe that this vessel being an American schooner had rendered herself liable to seizure for violation of the Customs' law, by not reporting when she touched at Baddeck, as well as of the coasting laws, by plying for trade between Canadian ports. The Collector's first telegram to the Minister of Customs stated that she was a fishing schooner, and on that information the telegram above referred to was sent, ordering her not to be longer detained, provided the conditions attached were complied with. If it had been known that the case was one of trading illegally, the vessel would, without doubt, have been held for violation of the Customs' law. By the time, however, when the Minister of Customs had been made aware of the actual facts of the case, she had already been released and permitted to proceed on her voyage.

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.

No. 55.

(Telegram.)

*Earl Granville to Lord Lansdowne.*

10th May, 1886.

Telegraph as early as possible the full particulars respecting the seizure of the "David J. Adams."

(Sd.) GRANVILLE.

No. 56.

(Telegram.)

*Lord Lansdowne to Earl Granville.*

10th May, 1886.

The schooner "David J. Adams" was buying bait at Digby. Did not report as required by law to Collector, and concealed her name and port of registry. Is now detained at Digby in charge of Collector, and will be tried before Vice-Admiralty Court, at Halifax, for violation of Dominion Fishery Law of 1868, for contravention of Convention of 1818, and for violation of Customs Law by not reporting to Collector. Question of limits of territorial waters not raised.

(Sd.) LANSDOWNE.

No. 57.

*Copy of telegram from Sir Lionel West to Governor General.*

11th May, 1886.

The conduct of Captain Scott in declining to give reasons for the seizure of the "David J. Adams," is much deprecated by the Secretary of State. The United States Consul has been referred to your Government.

(Sd.) WEST.

No. 58.

*From Governor-General to Earl Granville.*

OTTAWA, 11th May, 1886.

MY LORD,—I had the honour to send Your Lordship yesterday a telegram giving particulars of the detention on the 7th inst., at Digby, N.S., of the United States schooner "David J. Adams" for a breach of the Customs and Fishery Laws.

2. Your Lordship will observe that the case was one in which there was no doubt that the vessel had knowingly entered a Canadian port for an illegal purpose, her captain having endeavoured to conceal her name and port of registry. The evidence on this point and also the proof that she had bought bait in large quantities was, I understand, ample.

3. She had, in addition to this, violated Sections 25 and 29 of the Customs Act of 1883 (46 Vic., cap. 12) having been fully twenty-four hours in port without reporting to the Collector of Customs.

4. In consequence of the above occurrence, Captain Scott, R. N., in command of the Fishery Police Steamer "Lansdowne," took possession of the schooner and towed her to St. John, N.B. Instructions had, in the meantime, been sent to him by telegraph, as soon as the Fisheries Department had been advised of the seizure, to detain the "David J. Adams" at Digby, it being thought best that the vessel should be libelled and the case tried in the Vice-Admiralty Court of the Province in which the offence had been committed. In compliance with these instructions Captain Scott took the "David J. Adams" back to Digby, where she now remains in charge of the Collector of Customs.

5. Proceedings will be taken against her (1) for violation of the Customs Act 31 above referred to; (2) for violation of the Dominion Fishery Act 1868, 31 Vic., cap. 61; (3) for contravention of the provisions of the Convention of 1818 as enacted in the Imperial Act of 1819 (59 Geo. III, cap. 38).

6. No question has, in this case, arisen with regard to the limits of the territorial waters of the Dominion.

7. As your Lordship is, no doubt, aware American fishing vessels frequenting the coast of Canada have been in the habit of depending, to a great extent, upon Canadian fishermen for their supplies of bait. It has been usual for such vessels hailing from New England ports as soon as the supplies with which they had provided themselves on starting for their trip have become exhausted, to renew it in Canadian waters. Such vessels, if compelled, as soon as they ran short of bait, to return from the Canadian banks to an American port, would lose a great part of their fishing season and be put to considerable expense and inconvenience. Some idea of the importance of this point may be formed from the fact that Mr. Joncas, Commissioner to the London Fisheries Exhibition and a high authority on all matters connected with the fisheries of the Dominion, in a paper read before the British Association of Montreal in 1884, estimates the cost of the bait used by each vessel engaged in the cod fishing at one-fourth of the value of her catch of cod.

8. There can, however, be no doubt that under the terms of the Convention of 1818 foreign fishing vessels are absolutely precluded from resorting to Canadian waters for the purpose of obtaining supplies of bait, and in view of the injury which would result to the fishing interests of the Dominion which the Convention of 1818 was manifestly intended to protect, if any facilities not expressly authorized by that Convention were conceded to foreign fishermen, my Government will, so long as the relations of the Dominion with the United States are regulated by the Convention, be disposed to insist upon a strict observance of its provisions in this respect.

9. I will keep Your Lordship informed of any further occurrence which may take place in connection with this question.

I have, &c.  
(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K G., &c.

No. 59.

*Copy of telegram from Sir L. West to Governor General.*

12th May, 1886.

Referring to my telegram to you of yesterday, I am informed by the Secretary of State that Captain Scott still declines to state the reasons why the "David J. Adams" was seized or held. This information is maintained by the United States Consul to be necessary for the defence of the case.

(Sd.) WEST.

No. 60.

*Copy of telegram from Governor General to Sir L. West.*

12th May, 1886.

The "David J. Adams" will be proceeded against on account of the violation of the Customs Law of 1883, also of the Dominion Fishery Act of 1863 and of the Convention of 1818. Instructions to state reasons of seizure, in all cases, have been sent to Captain Scott.

(Sd.) LANSDOWNE.

No. 61.

*Minister at Washington to the Governor General.*

[No. 57.]

WASHINGTON, 12th May, 1886.

MY LORD,—I have the honour to enclose herewith for Your Excellency's information, copy of a note which I have received from the Secretary of State relative to the seizure of the American fishing vessel "David J. Adams," and to questions resulting therefrom.

I have, etc.,

(Sd.)

L. S. SACKVILLE WEST.

His Excellency

THE MARQUIS OF LANSDOWNE, K.C.M.G.,  
&c., &c., &c.

[Enclosure No. 1.]

*Mr. Bayard to the Minister at Washington.*

DEPARTMENT OF STATE,

WASHINGTON, 10th May, 1886.

SIR,—On the 6th instant, I received from the Consul General of the United States, at Halifax, a statement of the seizure of an American schooner, the "Joseph Story," of Gloucester, Massachusetts, by the authorities at Baddeck, Cape Breton, and her discharge after a detention of twenty-four hours.

On Saturday, the 8th instant, I received a telegram from the same official, announcing the seizure of the American schooner "David J. Adams," of Gloucester, Massachusetts, in the Annapolis Basin, Nova Scotia, and that the vessel had been placed in the custody of an officer of the Canadian steamer "Lansdowne," and sent to St. John, New Brunswick, for trial.

As both of these seizures took place in closely land-locked harbours, no invasion of the territorial waters of the British Provinces, with the view of fishing there, could well be imagined. And yet the arrests appear to have been based upon the act or intent of fishing within waters as to which, under the provisions of the Treaty of 1818, between Great Britain

and the United States of America, the liberty of the inhabitants of the United States to fish has been renounced.

It would be superfluous for me to dwell upon the desire which, I am sure, controls those respectively charged with the administration of the Governments of Great Britain and the United States to prevent occurrences tending to create exasperation and unneighbourly feeling, or collision between the inhabitants of the two countries; but animated with this sentiment the time seems opportune for me to submit some views for your consideration, which I confidently hope will lead to such administration of the laws regulating the commercial interests and the mercantile marine of the two countries as may promote good feeling and mutual advantage, and prevent hostility to commerce under the guise of protection to inshore fisheries.

The Treaty of 1818 is between two nations, the United States of America and Great Britain, who, as the contracting parties, can alone apply authoritative interpretation thereto, or enforce its provisions by appropriate legislation.

The discussion prior to the conclusion of the Treaty of Washington, in 1871, was productive of a substantial agreement between the two countries as to the existence and limit of the three marine miles, within the line of which, upon the regions defined in the Treaty of 1818, it should not be lawful for American fishermen to take, dry or cure fish. There is no hesitancy upon the part of the Government of the United States to proclaim such inhibition and warn their citizens against the infraction of the treaty in that regard, so that such inshore fishing cannot lawfully be enjoyed by an American vessel being within three marine miles of the land.

But since the date of the Treaty of 1818, a series of laws and regulations importantly affecting the trade between the North American Provinces of Great Britain and the United States have been, respectively, adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants.

This independent, and yet concurrent, action by the two Governments, has effected a gradual extension, from time to time, of the provisions of Article 1 of the Convention of 3rd July, 1815, providing for reciprocal liberty of commerce between the United States and the territories of Great Britain in Europe, so as gradually to include the Colonial possessions of Great Britain in North America and the West Indies, within the results of that treaty.

President Jackson's Proclamation of 5th October, 1830, created a reciprocal commercial intercourse, on terms of perfect equality of flag between this country and the British American dependencies, by repealing the Navigation Acts of 18th April, 1818, 15th May, 1820, and 1st March, 1823, and admitting British vessels and their cargoes "to an entry in the ports of the United States, from the islands, provinces and colonies of Great Britain, on or near the American continent, and north or east of the United States." These commercial privileges have since received a large extension, in the interests of propinquity, and, in some cases, favours have been granted by the United States without equivalent concession. Of the latter class, is the exemption granted by the Shipping Act of 26th June, 1884, amounting to one-half of the regular tonnage dues on all vessels from the British North American and West Indian possessions entering ports of the United States. Of the reciprocal class are the arrangements for transit of goods and the remission by proclamation, as to certain British ports and places, of the remainder of the tonnage tax, on evidence of equal treatment being shown to our vessels.

On the other side, British and Colonial legislation, as notably in the case of the Imperial Shipping and Navigation Act of 26th June, 1849, has contributed its share toward building up an intimate intercourse and beneficial traffic between the two countries, founded on mutual interest and convenience. These arrangements, so far as the United States are concerned, depend upon municipal statute and upon the discretionary powers of the executive thereunder.

The seizure of the vessels I have mentioned, and certain published warnings purporting to have been issued by the colonial authorities, would appear to have been made under a supposed delegation of jurisdiction by the Imperial Government of Great Britain, and to be intended to include authority to interpret and enforce the provisions of the Treaty of 1818, to which, as I have remarked, the United States and Great Britain are the contracting parties, who can alone deal responsibly with questions arising thereunder.

The effect of this Colonial legislation and executive interpretation, if executed according to the letter, would be not only to expand the restrictions and renunciations of the Treaty of 1818, which related solely to inshore fishing within the three-mile limit, so as to affect the deep sea fisheries, the right to which remained unquestioned and unimpaired for the enjoyment of the citizens of the United States, but further to diminish and practically destroy the privileges expressly secured to American fishing vessels to visit those inshore waters for the objects of shelter, repair of damages and purchasing wood and obtaining water.

Since 1818 certain important changes have taken place in fishing in the regions in question, which have materially modified the conditions under which the business of inshore fishing is conducted and which must have great weight in any present administration of the Treaty.

Drying and curing fish, for which a use of the adjacent shores was at one time requisite, is now no longer followed, and modern invention of processes of artificial freezing, and the employment of vessels of a larger size, permit the catch and direct transportation of fish to the markets of the United States without recourse to the shores contiguous to the fishing grounds.

The mode of taking fish inshore has also been wholly changed, and from the highest authority on such subjects I learn that bait is no longer needed for such fishing, that purse-seines have been substituted for the other methods of taking mackerel, and that by their employment these fish are now readily caught in deeper waters entirely exterior to the three-mile line.

As it is admitted that the deep-sea fishing was not under consideration in the negotiation of the Treaty of 1818, nor was affected thereby, and as the use of bait for inshore fishing has passed wholly into disuse, the reasons which may have formerly existed for refusing to permit American fishermen to catch or procure bait within the line of a marine league from the shore, lest they should also use it in the same inhibited waters for the purpose of catching other fish, no longer exist.

For it will, I believe, be conceded as a fact that bait is no longer needed to catch herring or mackerel, which are the objects of inshore fishing, but is used, and only used, in deep-sea fishing, and, therefore, to prevent the purchase of bait or any other supply needed in deep-sea fishing, under colour of executing the provisions of the Treaty of 1818, would be to expand that convention to objects wholly beyond its purview, scope and intent, and give to it an effect never contemplated by either party, accompanied by results unjust and injurious to the citizens of the United States. As, therefore, there is no longer any inducement for American fishermen to dry and cure fish on the interdicted coasts of the Canadian Provinces, and as bait is no longer used or needed by them (for the prosecution of inshore fishing) in order to take fish in the inshore waters to which the Treaty of 1818 alone relates, I ask you to consider the results of excluding American vessels duly possessed of permits from their own Government to touch and trade at Canadian ports, as well as to engage in deep-sea fishing from exercising freely the same customary and reasonable rights and privileges of trade in the ports of the British Colonies as are freely allowed to British vessels in all the ports of the United States under the laws and regulations to which I have adverted.

Among these customary rights and privileges may be enumerated the purchase of ship supplies of every nature, making repairs, the shipment of crews in whole or part, and the purchase of ice and bait for use in deep sea fishing.

Concurrently, these usual rational and convenient privileges are freely extended to and are fully enjoyed by the Canadian merchant marine of all occupations, including fishermen, in the ports of the United States.

The question therefore arises whether such a construction is admissible as would convert the Treaty of 1818, from being an instrumentality for the protection of the inshore fisheries along the described parts of the British American coast, into a pretext or means of obstructing the business of deep sea fishing by citizens of the United States, and of interrupting and destroying the commercial intercourse that, since the Treaty of 1818 and independent of any treaty whatever, has grown up and now exists under the concurrent and friendly laws and mercantile regulations of the respective countries?

I may recall to your attention the fact that a proposition to exclude the vessels of the United States engaged in fishing from carrying also merchandize, was made by the British negotiators of the Treaty of 1818, but being resisted by the American negotiators was abandoned. This fact would seem clearly to indicate that the business of fishing did not then and does not now disqualify a vessel from also trading in the regular ports of entry.

I have been led to offer these considerations by the recent seizures of American vessels to which I have adverted and by indications of a local spirit of interpretation in the Provinces, affecting friendly intercourse, which is, I firmly believe, not warranted by the terms of the stipulations on which it professes to rest. It is not my purpose to prejudge the facts of the cases, nor have I any desire to shield any American vessel from the consequences of violation of international obligation. The views I advanced may prove not to be applicable in every feature to those particular cases, and I should be glad if no case whatever were to arise calling in question the good understanding of the two countries in this regard in order to be free from the grave apprehensions which, otherwise, I am unable to dismiss.

It would be most unfortunate and, I cannot refrain from saying, most unworthy, if the two nations who contracted the Treaty of 1818, should permit any questions of mutual right

and duty under that convention to become obscured by partisan advocacy or distorted by the heat of local interests. It cannot but be the common aim to conduct all discussion in this regard with dignity and in a self-respecting spirit, that will show itself intent upon securing equal justice rather than unequal advantage. Comity, courtesy and justice cannot, I am sure, fail to be the ruling motives and objects of discussion.

I shall be most happy to come to a distinct and friendly understanding with you, as the representative of Her Britannic Majesty's Government, which will result in such a definition of the rights of American fishing vessels under the Treaty of 1818, as shall effectually prevent any encroachment by them upon the territorial waters of the British Provinces, for the purpose of fishing within those waters, or trespassing in any way upon the littoral or marine rights of the inhabitants, and at the same time prevent that convention from being improperly expanded into an instrument of discord, by affecting interests and accomplishing results wholly outside of and contrary to its object and intent, by allowing it to become an agency to interfere with, and perhaps destroy, those reciprocal commercial privileges and facilities between neighbouring communities, which contribute so importantly to their peace and happiness.

It is obviously essential that the administration of the laws regulating the Canadian inshore fishing should not be conducted in a punitive and hostile spirit, which can only tend to induce acts of a retaliatory nature.

Everything will be done by the United States to cause their citizens, engaged in fishing, to conform to the obligations of the treaty, and prevent an infraction of the fishing laws of the British Provinces; but it is equally necessary that ordinary commercial intercourse should not be interrupted by harsh measures and unfriendly administration.

I have the honour, therefore, to invite a frank expression of your views upon the subject, believing that, should any differences of opinion or disagreement as to facts exist, they will be found to be so minimized that an accord can be established for the full protection of the inshore fishing of the British Provinces, without obstructing the open sea fishing operations of the citizens of the United States, or disturbing the trade regulations now subsisting between the countries.

I have, &c.,

(Sd.) T. F. BAYARD.

No. 62.

*Governor General to Earl Granville.*

[No. 156.]

OTTAWA, 17th May, 1886.

MY LORD,—I have the honour to enclose herewith copies of the following paper relating to the recent seizure of the United States Schooner "David J. Adams," for alleged violation of the Customs and Fishery laws.

- (1.) Captain Scott's report addressed to the Minister of Fisheries.
- (2.) Statement by the first officer of the Dominion cruiser "Lansdowne."
- (3.) Five statements sworn before Captain Scott. (Also memo.)

I take this opportunity of observing that on the 11th and 12th inst., I received from Her Majesty's Minister at Washington telegrams informing me that it had been made a subject of complaint by the United States Consul at Halifax that he was unable to obtain at once from Captain, Scott in command of the Government steamer "Lansdowne" a statement of the reasons for which the "David J. Adams" was detained, and that the Secretary of State deprecated Captain Scott's conduct in the matter. To these telegrams I sent a reply stating that the vessel in question would be proceeded against for violation of the Customs Act of 1883, of the Dominion Fishery Act of 1868 and of the Convention of 1818. I added that Captain Scott had been instructed to state his reason for any subsequent seizure which he might find it necessary to make.

It is I think fair to point out in reference to this complaint that the seizure being the first which had taken place and the legal questions involved being somewhat intricate Captain Scott may be presumed to have been not unnaturally reluctant to commit himself to the extent of supplying the United States Consul with a formal definition of the charges which would be made against the "David J. Adams," and of

the grounds upon which he had made the seizure, although he evidently felt no doubt that they were sufficient to warrant his action, and although as Your Lordship will perceive on reference to the enclosures herewith he made an informal statement of those grounds at the outset to the master of the seized vessel.

I may add that as soon as the matter had been enquired into by my Ministers Captain Scott was authorized to supply the master of the "David J. Adams" with a written statement of the reasons; for which that vessel was seized.

I have, &c.,

(Sd.)

LANSDOWNNE.

The Right Honourable

EARL GRANVILLE, K.G.,

&c., &c., &c.

[Enclosure No. 1.]

REPORT from Officer commanding Cruiser "Lansdownne" to the Deputy Minister of Fisheries  
re seizure of "D. J. Adams."

DIGBY, 11th May, 1886.

GOVERNMENT STEAMER "LANSDOWNNE,"

SIR,—I have to inform you that on the 6th instant, while in St. John, I received a despatch from the Collector of Customs at Digby, to the following effect: "Fishing schooner, name and port of registry covered, now in harbour buying bait." I wired you for instructions, but not receiving any, I concluded to come here as soon as possible. We left at 7.30 p.m., and anchored off Digby at 11.45, when the boats were lowered and boarded several schooners, but did not find the right one.

As the day broke on the 7th a schooner was seen off Bear Island making the attempt to get out, but as the wind was light and the tide against her she did not succeed. About 4.30 a.m. the First Officer boarded her and ascertained that she was the "David J. Adams," of Gloucester, Mass. The Captain stated that he had not come in for bait, and the boat returned on board. At 10 a.m., not being satisfied with the above report, I ordered Captain Dakin and the First Officer to search her thoroughly, when they discovered a quantity of fresh herring packed in ice in the main hold close to the hatchway. When the boat returned I ordered the schooner to run in and anchor off Digby; we followed and anchored at 11.15 a.m. I then called upon several parties in the neighbourhood for evidence as to the purchase of the bait. In the afternoon I proceeded to Victoria Beach, Granville, Annapolis County, accompanied by the Collector of Customs and the fishery officer at Digby, having heard that some bait had been sold to the Master of that schooner by a man of the name of Ellis.

I took his evidence, which went to prove that he had sold him four barrels of bait on the previous morning for \$1.25 a barrel. It appears that Ellis was notwilling to sell it to him fearing that he was an American, but the master informed him that he was not, but belonged to Deer Island. At 4 p.m., with the pier of Digby bearing S. W. by S., distant three-quarters of a mile, Captain Scott boarded "D. J. Adams" and seized her for violating the Dominion Fishery Act, and placed a guard on board.

At 4.30 on the 8th instant the crew of the "D. J. Adams," with the exception of three men, came on board for passage to St. John. At 6 a.m. we took the schooner in tow and took her there for safety. At 10.30 we lashed to the wharf and hauled the schooner alongside. The Master and crew then landed.

Sunday, the 9th, having received a despatch to take the schooner back to Digby, the master and crew were offered a passage if they liked to go, they declined doing so and they then removed all their personal effects.

At 11 we cast off and proceeded. The first officer and five men took charge of the schooner and sailed her over to the "Gut," where we took her in tow and both anchored at 4 p.m. off the Raquette.

Monday, 10th May, at 5.30, the Collector having been directed to take charge of the schooner she was handed over to him.

11th. Mr. Wallace Graham having directed me to still hold the schooner, I sent the First Officer and one man back to her to remain on board until further orders.

I am, Sir, &c.,

(Sd.)

P. A. SCOTT.

[Enclosure No. 2.]

*Affidavit of Chief Officer SS. "Lansdowne."*

DIGBY, NOVA SCOTIA, 10th, May 1886.

Before Capt. Scott, R. N., Fishery Officer :—

I, James Beattie Hill, first officer of the Government steamer "Lansdowne," being duly sworn, testify as follows :—

I boarded the American fishing schooner "David J. Adams," of Gloucester, Mass., United States of America, at five o'clock on the morning of the 7th May, she being under way, heading to the northward and westward, trying to get out of Annapolis Basin, Digby pier bearing about S. W. at a distance of about  $2\frac{1}{2}$  miles. I did not see her stern, therefore did not see the name of the vessel, and getting upon her deck I asked the master where his vessel hailed from. He replied, Gloucester. I asked what he had come in for. He said to see his people, as he formerly belonged here. I asked if he had any fresh bait on board. He said he had not. I asked where he was from. He replied, from the Banks. I asked where he was bound to. He said, to Eastport. I told him he had no business here, and that I supposed he knew the law, to which he replied, yes. I then returned to the "Lansdowne," after boarding another vessel, whose name was, I think, the "Lizzie Magee," of St. Andrews, New Brunswick. One of her crew told me that the "David J. Adams" had bought bait for one dollar and twenty-five cents which he had engaged for himself at seventy-five cents per barrel.

At about ten in the forenoon I was again ordered to return to the "David J. Adams" and search her thoroughly for bait. At this time she was in the "Gut," about one mile south of Victoria Beach. I told the captain I had come on board to make an examination. He said, very well. I then told him that a person on shore had stated that he had bought bait here. He replied that I might bring that person on board and that he would call that person a liar, if that would do any good. Upon searching the hold I found fresh herring upon ice which appeared to be perfectly fresh. Upon my stating my opinion, he said it was about ten days old.

I told him I would have to report to Capt. Scott that I was of opinion that it was fresh. I then returned to the "Lansdowne."

Captain Scott having directed Capt. Dakin to return with me to the "David J. Adams," we went upon her deck and had some of her bait handed up for inspection. Both Captain Dakin and I agreed that it was fresh. We then returned to the "Lansdowne." I was immediately ordered to return to the "David J. Adams" and direct her master to return to Digby and anchor near the "Lansdowne."

(Sd.) JAMES BEATTIE HILL,  
First Officer Government SS. "Lansdowne."

Witness :

(Sd.) MANFRED J. L. SAWYER.

[Enclosure No. 3.]

*Affidavit of Samuel D. Ellis.*

VICTORIA BEACH, GRANVILLE, N. S., 7th May 1886.

Before Captain Scott, R. N., Fishery Officer :

I, Samuel Dennis Ellis, fishermen, being duly sworn, state that on the morning of the sixth instant the Master of the "David J. Adams," professing to be under English register, applied to me for bait, and I therefore sold him four barrels of herring which I saw him take on board his own vessel. I know nothing further of this matter, but am certain as to the vessel, having noticed she had a broken main top-mast.

(Sd.) SAMUEL D. + ELLIS.  
his  
mark.

Witnessed by

(Sd.) WM. HANLEY,  
Fishery Overseer.

## [Enclosure No. 4.]

*Affidavit of Charles T. Dakin.*

DIGBY, NOVA SCOTIA, 11th May, 1886.

Before Captain Scott, R. N., Fishery Officer :

I, Charles T. Dakin, being duly sworn, do testify as follows :—

That on the 7th day of May I boarded the American schooner "David J. Adams," of Gloucester, Mass. I went into the hold and examined the bait I saw packed in ice, and I do solemnly declare that it was fresh. I asked the Captain if it was true that he had bought any bait from a man named Ellis.

He replied that he did not think this was true.

(Sd.) CHARLES T. DAKIN,  
Master of the Government Steamer "Lansdowne."

Witness :

(Sd.) MANFRED SAWYER.

## [Enclosure No. 5.]

*Affidavit of Edwin C. Dodge.*

DIGBY, Nova Scotia, May 7th, 1886.

Before Captain Scott, R. N., Fishery Officer :

I, Edwin C. Dodge, Master Mechanic, being duly sworn, state that—

While standing on Digby Pier, about 9 o'clock in the morning, on the 6th May, I observed a fishing schooner which proved to be the "David J. Adams," of Gloucester, Mass., standing to the southward under her four lower sails, and observed her to tack in close to the wharf.

I observed when her stern was towards me that her name could not be made out, it being hidden by canvas, and which, in my opinion, was done with the object of screening it.

(Sd.) EDWIN C. DODGE.

## [Enclosure No. 6.]

*Affidavit of Owen Riley.*

DIGBY, NOVA SCOTIA, 7th May, 1886.

Before Captain Scott, R.N., Fishery Officer :

I, OWEN RILEY, a fisherman, being duly sworn, states that—

While standing on Digby Pier at about 9 o'clock in the morning of the 6th May, I observed a fishing schooner which proved to be the "David J. Adams," of Gloucester, Mass., standing to the southward under her four lower sails, and observed her to tack close into the wharf. I observed when her stern was towards me that her name could not be made out, it being hidden by canvas, and which, in my opinion, was done with the object of screening it.

(Sd.) OWEN RILEY.

## [Enclosure No. 7.]

*Affidavit of Frederick Allen.*

DIGBY, NOVA SCOTIA, 11th May, 1886.

Before Captain Scott, R.N. :

I, Frederick Allen, seaman on board the Dominion steamer "Lansdowne," being duly sworn, testify as follows :—

That I being one of the boat's crew of the above ship which boarded the American schooner "David J. Adams," on the 7th May, while in the basin of Annapolis, went into the hold of that vessel and examined the bait, and do solemnly declare that it was fresh.

(Sd.) FREDERICK ALLEN.

Witness :

(Sd.) MANFRED J. L. SAWYER.

[Enclosure No. 8.]

(Memorandum.)

Referring to the alleged refusal of Captain Scott to inform the United States Consul General of the causes for which the "David J. Adams" was seized and held, it seems that the Captain of the seized vessel was made aware of the causes of seizure and detention. It is the desire of the Government, and in accordance with its instructions, that full information shall be given in all such cases, and that there shall be no vindictiveness evinced in any of the proceedings against foreign vessels, nor any hostility beyond what is necessary for the peaceful enforcement of the laws of the country.

It is suggested that the answer of Captain Scott to the United States Consul General, dated 11th May instant, should not be taken as evidence of any hostility or discourtesy.

The captain, and others interested in the vessel, being aware of the offences charged, the letter of the United States Consul General of 11th May is understood here (and probably was understood by Captain Scott) as calling for a statement of those charges in a full and specific form.

As there appears to have been ground for two or three charges for infraction both of the statutes relating to fishing vessels and those relating to Customs, and the whole matter had, before the date of the Consul General's letter, been placed by the Minister of Marine and Fisheries in the hands of his counsel, it was not surprising that Captain Scott should have hesitated to state the causes of seizure and detention "fully and specifically," and should have preferred that the enquiry should be made of his superiors.

Instructions have been given that in such cases the captain of any vessel seized shall, as soon as possible, be informed of the cause of seizure.

With reference to the statement that Captain Scott had relinquished possession of the "David J. Adams," and had afterwards resumed possession, the fact appears to be, that when he relinquished the possession he only did so to the extent of handing her over to the Collector of Customs of the Port of Digby. It seems to have been considered desirable by counsel advising Captain Scott that the vessel should be detained by him as the officer who, in the first instance, had made the arrest.

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No. 63.

*Governor General to Minister at Washington.*

[No. 54.]

OTTAWA, 17th May, 1886.

SIR,—I had the honour of receiving your letter of the 12th instant, enclosing a copy of Mr. Bayard's note of the 10th, upon the questions raised by the recent detention of the United States schooner "David J. Adams," at Digby, Nova Scotia, for alleged violation of the Customs and Fishery laws.

You have, I understood, been good enough to supply me with a copy of that letter in order that the Dominion Government may, without loss of time, be placed in possession of the views of the United States, in regard to these questions and not with the object of eliciting from me at present any comments upon the arguments advanced by Mr. Bayard.

I am, however, glad to take the earliest opportunity of expressing the pleasure with which the Government of the Dominion has observed the temper in which Mr. Bayard has discussed the matters referred to, and its entire concurrence with him in desiring to import into that discussion nothing that could affect the friendly relations of the two countries.

I have, &amp;c.,

(Sd.) LANSLOWNE.

The Honourable

SIR LIONEL S. SACKVILLE WEST, K.C.M.G.

No. 64.

*Governor General to Earl Granville.*

[No. 160.]

OTTAWA, 18th May, 1886.

MY LORD,—I have the honour to forward herewith for Your Lordship's information a copy of a despatch which I have received from Her Majesty's Minister at Washington, enclosing copy of a note dated 10th of same month, from the United States Secretary of State, in which are set forth the views of that Government upon the seizure of the fishing schooner "David J. Adams," and the questions arising therefrom.

I have the honour also to enclose a copy of the reply, which I have sent to  
No. 63. Sir L. West.

I have communicated a copy of Sir L. West's despatch and of Mr. Bayard's note to my Ministers for their information.

I have, &amp;c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.

No. 65.

*Governor General to Earl Granville.*

[No. 161.]

OTTAWA, 19th May, 1886.

MY LORD,—I have the honor to inform you that the American fishing schooner "Ella M. Doughty" was seized at St. Ann's, Nova Scotia, by Sub-Collector McAulay, who is reported by the Collector of Customs at Baddeck, Mr. L. G. Campbell, to have proof that the captain bought bait at St. Ann's without reporting to the Customs' authorities.

Mr. Campbell further telegraphs that the captain acknowledged the facts and showed the bait bought, but claimed that he held a permit or license, signed by the Collector of Customs at Portland, Maine, to touch and trade at any foreign port.

The "Ella M. Doughty" has been held for not reporting, and an enquiry is now proceeding in order to ascertain whether there has or has not been an infraction of the Fishery Law of the Dominion.

I have, &amp;c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.,  
&c., &c., &c.

No. 66.

*The Marquis of Lansdowne to Earl Granville.*

[No. 162.]

OTTAWA, 19th May, 1886.

MY LORD,—I have the honour to enclose herewith a copy of a Bill recently introduced in the Dominion House of Commons by my Minister of Marine and Fisheries for the purpose of amending the Act 31 Vic., chap. 61, respecting fishing by foreign vessels in the territorial waters of the Dominion.

That Act was as Your Lordship is aware passed with the object of giving effect to the Convention of 1818 by rendering liable to certain penalties all foreign fishing

vessels entering the territorial waters of the Dominion for any purpose not authorized by that Convention. It is provided under the third section of the Act referred to that the penalty of forfeiture shall attach to any foreign vessel which "has been found fishing or preparing to fish or to have been fishing" without a license within the three-mile limit. These words which follow closely those of sec. II of the Imperial Act of 1819 (59 George III, chap. 38) appear to my Government to be insufficient for the purpose of giving effect to the intentions of the framers of the Convention of 1818, inasmuch as while the penalty of forfeiture is attached to foreign vessels found fishing, or preparing to fish, or having been fishing within the three-mile limit, it is not clear that under them the same penalty would attach to vessels entering the territorial waters in contravention of the stipulations of the Convention, for a purpose other than those of sheltering, repairing damages, purchasing wood and obtaining water for which purposes alone under the terms of Article I, of the Convention and of sec. 3 of the Imperial Act of 1819, above referred to, foreign fishing vessels are permitted to enter the bays and harbours of the Dominion.

Your Lordship is no doubt aware that the decisions of the Canadian courts leave it open to question whether the purchase of bait in Canadian waters does or does not constitute a preparation to fish within the meaning of the Imperial Act of 1819, and the Canadian Statute which it is now sought to amend. The decision of Chief Justice Sir W. Young in the Vice-Admiralty Court of Nova Scotia given in November, 1871, in the case of the fishing schooner "Nickerson", was to the effect that the purchase of bait constituted such a preparation to fish within Canadian waters. The same point had, however, previously arisen in February, 1871, in the Vice-Admiralty Court at St. John, N.B., in the case of the American fishing vessel "White Fawn," when Mr. Justice Hazen decided that the purchase of bait within the three-mile limit was not of itself a proof that the vessel was preparing to fish illegally within that limit.

There being therefore some doubt whether the intention of the Convention of 1818 is effectually carried out either by the Imperial or the Canadian Acts referred to, it has been thought desirable by my Government to have recourse to legislation removing all doubt as to the liability to forfeiture of all foreign fishing vessels resorting to Canadian waters for purposes not permitted by law or by treaty.

As the law now stands, if it should prove that the purchase of bait is not held by the courts to constitute a preparation to fish illegally there would be no remedy against foreign fishing vessels frequenting the waters of the Dominion for purposes not permitted by the Convention of 1818 except

(1.) That provided by Section IV of the Act of 1819, namely, a penalty of £200 recoverable in the Superior Courts from the persons violating the provisions of the Act. This penalty, however, only attaches to a refusal to depart from the bay or harbour which the vessel has illegally entered, or to a refusal or neglect to conform to any regulations or directions made under the Act, and as the purpose for which the vessel has entered will, in most cases, have been accomplished before an order can have been given for her departure, it will be obvious that this penalty has very little practical utility.

(2.) The common law penalties attaching to a violation of the Imperial Statutes above referred to in respect of illegally entering the bays and harbours of the Dominion. If, however, it were sought to enforce these penalties, their enforcement personally against the master of the vessel, would result in his having ultimately to take his trial for a misdemeanour while he would, in the first instance, be required to find bail to a considerable amount, a result which would, in the opinion of my Government, be regarded as more oppressive than the detention of the offending vessel subject to the investigation of her case by the Vice-Admiralty Courts.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable,  
EARL GRANVILLE, K.G.,  
&c., &c., &c.

[Enclosure No. 1.]

AN ACT FURTHER TO AMEND THE ACT RESPECTING FISHING BY  
FOREIGN VESSELS.

Whereas it is expedient for the more effectual protection of the inshore fisheries of Canada, against intrusion by foreigners, to further amend the Act intituled : "*An Act respecting Fishing by Foreign Vessels*," passed in the thirty-first year of Her Majesty's reign, and chaptered sixty one ; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The section substituted by the first section of the Act thirty-third Victoria, chapter fifteen, intituled "*An Act to amend the Act respecting Fishing by Foreign Vessels*," for the third section of the hereinbefore recited Act, is hereby repealed, and the following section substituted in lieu thereof :

" 3. Any one of the officers or persons hereinbefore mentioned may bring any ship, vessel or boat, being within any harbour in Canada, or hovering in British waters within three marine miles of any of the coasts, bays, creeks or harbours in Canada, into port, and search her cargo, and may also examine the master upon oath touching the cargo and voyage ; and if the master or person in command does not truly answer the questions put to him in such examination, he shall incur a penalty of four hundred dollars ; and if such ship, vessel or boat is foreign, or not navigated according to the laws of the United Kingdom or of Canada, and (a) has been found fishing or preparing to fish, or to have been fishing in British waters within three marine miles of any of the coasts, bays, creeks or harbours of Canada, not included within the above mentioned limits, without a license, or after the expiration of the term named in the last license granted to such ship, vessel or boat, under the first section of this Act, or (b) has entered such waters for any purpose not permitted by the law of nations, or by treaty or convention, or by any law of the United Kingdom or of Canada for the time being in force, or (c) having entered such waters has failed to comply with any such law of the United Kingdom or of Canada, such ship, vessel or boat and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited.

2. The Acts mentioned in the schedule hereto are hereby repealed.

3. This Act shall be construed as one with the said "*Act respecting Fishing by Foreign Vessels*" and the amendments thereto.

SCHEDULE.

ACTS OF THE LEGISLATURE OF THE PROVINCE OF NOVA SCOTIA.

Year, Reign, and Chapter.	Title of Act.	Extent of Repeal.
Revised Statutes, 3rd Series, c. 94.	Of the Coast and Deep Sea Fisheries .....	The whole.
29 Vic. (1866) c. 35. ....	An Act to amend Chapter 94 of the Revised Statutes "Of the Coast and Deep Sea Fisheries." .....	The whole.

ACT OF THE LEGISLATURE OF THE PROVINCE OF NEW BRUNSWICK.

16 Vic. (1853) c. 69. ....	An Act relating to the Coast Fisheries, and for the prevention of illicit trade .....	The whole.
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ACT OF THE LEGISLATURE OF THE PROVINCE OF PRINCE EDWARD ISLAND.

6 Vic. (1843) c. 14. ....	An Act relating to the Fisheries, and for the prevention of illicit trade in Prince Edward Island and the Coasts and Harbors thereof .....	The whole.
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No. 67.

*Minister at Washington to Governor General.*

BRITISH LEGATION,

WASHINGTON, 21st May, 1886.

[No. 59.]

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch, No. 54, of the 17th instant, and to inform Your Lordship that I took an opportunity of communicating it to the Secretary of State, who expressed great satisfaction at the conciliatory language used by Your Excellency.

I have, &amp;c.,

(Sd.) L. S. S. WEST.

His Excellency  
THE GOVERNOR GENERAL.

No. 68.

*Sir Lionel S. Sackville West to Marquis of Lansdowne.*

BRITISH LEGATION,

WASHINGTON, 21st May, 1886.

[No. 60.]

MY LORD,—I have the honour to enclose herewith, for Your Excellency's information, copy of a further note, which I have received from the Secretary of State, respecting the seizure of American fishing vessels in Canadian waters.

I have, &amp;c.,

(Sd.) L. S. SACKVILLE WEST.

To the MARQUIS OF LANSDOWNE, K.C.M.G.,  
&c., &c., &c.

[Enclosure No. 1.]

DEPARTMENT OF STATE,

WASHINGTON, 20th May, 1886.

SIR,—Although without reply to the note I had the honour to address to you on the 10th instant in relation to the Canadian fisheries, and the interpretation of the Treaty of 1818, between the United States and Great Britain as to the rights and duties of the American citizens engaged in maritime trade and intercourse with the Provinces of British North America, in view of the unrestrained, and as it appears to me unwarranted, irregular and severe action of the Canadian officials toward American vessels in those waters. Yet I feel it to be my duty to bring impressively to your attention information more recently received by me from the United States Consul General at Halifax, Nova Scotia, in relation to the seizure and continued detention of the American schooner "David J. Adams" already referred to in my previous note, and the apparent disposition of the local officials to use the most extreme and technical reasons for interference with vessels not engaged in or intended for inshore fishing on that coast.

The report received by me yesterday evening alleges such action in relation to the vessel mentioned as renders it difficult to imagine it to be that orderly proceeding and "due process of law," so well known and customarily experienced in Great Britain and the United States, and which dignifies the two Governments, and gives to private rights of property and the liberty of the individual their essential safeguards.

By the information thus derived it would appear that after four several and distinct visitations by boats' crews from the "Lansdowne" in Annapolis Basin, Nova Scotia, the "David J. Adams" was summarily taken into custody by the Canadian steamer "Lansdowne" and carried out of the Province of Nova Scotia across the Bay of Fundy and into the port of St. John, New Brunswick, and, without explanation or hearing, on the following Monday,

10th May, taken back again by an armed crew to Digby in Nova Scotia. That in Digby the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such manner as to prevent its contents being read, and the request of the captain of the "David J. Adams" and of the U. S. Consul General to be allowed to detach the writ from the mast for the purpose of learning its contents was positively refused by the provincial officials in charge. Nor was the U. S. Consul General able to learn from the commander of the "Lansdowne" the nature of the complaint against the vessel, and his respectful application to that effect was fruitless.

In so extraordinary, confused and irresponsible a condition of affairs, it is not possible to ascertain with that accuracy which is needful in matters of such grave importance the precise grounds for this harsh and peremptory arrest and detention of a vessel the property of citizens of a nation with whom relations of peace and amity were supposed to exist.

From the best information, however, which the U. S. Consul General was enabled to obtain after application to the prosecuting officials, he reports that the "David J. Adams" was seized and is now held :—

1st. For alleged violation of the Treaty of 1818 ;

2nd. For alleged violation of the Act 59 George III ;

3rd. For alleged violation of the Colonial Act of Nova Scotia of 1818 ; and

4th. For alleged violation of the Act of 1870, and also of 1883—both Canadian Statutes.

Of these allegations there is but one which at present I press upon your consideration, and that is the alleged infraction of the Treaty of 1818.

I beg to call to your attention the correspondence and action of those respectively charged with the administration and government of Great Britain and the United States in the year 1870, when the same international questions were under consideration, and the status of law was not essentially different from what it is at present.

This correspondence discloses the intention of the Canadian authorities of that day to prevent encroachment upon their inshore fishing grounds, and their preparations, in the way of a marine police force, very much as we now witness.

The Statutes of Great Britain and of her Canadian Provinces, which are now supposed to be invoked as authority for the action against the schooner "David J. Adams," were then reported as the basis of their proceedings.

In his note of 26th May, 1870 Mr. (afterwards Sir Edward) Thornton, the British Minister at this Capital, conveyed to Mr. Fish, then Secretary of State, copies of the orders of the Royal Admiralty to the Admiral Wellesley, in command of the naval forces "employed in maintaining order at the fisheries in the neighbourhood of the coasts of Canada."

All of these orders directed the protection of Canadian fishermen, and cordial co-operation and concert with the United States force sent on the same service, with respect to American fishermen in those waters. Great caution in the arrest of American vessels charged with violation of the Canadian Fishing laws was scrupulously enjoined upon the British authorities, and the extreme importance of the commanding officers of ships selected to protect the fisheries exercising the utmost discretion in paying especial attention to Lord Granville's observation, that no vessel should be seized unless it were evident and could be clearly proved that the offence of fishing had been committed and the vessel captured within three miles of land.

This caution was still more explicitly announced when Mr. Thornton, on the 11th of June, 1870, wrote to Mr. Fish :—

"You are, however, quite right in not doubting that Admiral Wellesley, on the receipt of the later instructions addressed to him on the 5th ultimo, will have modified the directions to the officers under his command, so that they may be in conformity with the views of the Admiralty.

"In confirmation of this, I have since received a letter from Vice-Admiral Wellesley, dated the 30th ultimo, informing me that he had received instructions to the effect that officers of Her Majesty's ships employed in the protection of the fisheries should not seize any vessel, unless it were evident and could be clearly proved that the offence of fishing had been committed, and the vessel itself captured within three miles of land."

This understanding between the two Governments wisely and efficiently guarded against the manifest danger of entrusting the execution of powers so important and involving so high and delicate a discretion to any but wise and responsible officials, whose prudence and care should be commensurate with the magnitude and national importance of the interest involved, and I should fail in my duty if I did not endeavour to impress you with my sense of the absolute and instant necessity that now exists for a restriction of the seizure of American vessels charged with violations of the Treaty of 1818, to the conditions announced by Sir Edward Thornton to this Government, in June, 1870.

The charges of violating the local laws and commercial regulations of the ports of the British Provinces (to which I am desirous that due and full observance should be paid by the

citizens of the United States) I do not consider in this note, and I will only take this occasion to ask you to give me full information of the official action of the Canadian authorities in this regard, and what laws and regulations having the force of law, in relation to the protection of their inshore fisheries and preventing encroachments thereon, are now held by them to be in force.

But I trust you will join with me in realizing the urgent and essential importance of restricting all arrests of American fishing vessels for supposed or alleged violations of the Convention of 1818, within the limitations and conditions laid down by the authorities of Great Britain in 1870; to wit, that no vessel shall be seized unless it is evident and can be clearly proved that the offence of fishing has been committed and the vessel itself captured within three miles of land.

In regard to the necessity for the instant imposition of such restrictions upon the arrest of vessels, you will, I believe, agree with me, and I will therefore ask you to procure such steps to be taken as shall cause such orders to be forthwith put in force under the authority of Her Majesty's Government.

I have, &c.,

(Sd.)

T. F. BAYARD.

— — —  
No. 69.

*Sir L. S. Sackville West to the Marquis of Lansdowne.*

BRITISH LEGATION,

WASHINGTON, 21st May, 1886.

[No. 61.]

MY LORD,—I have the honour to enclose to Your Excellency herewith copy of a note which I have received from Mr. Bayard, asking for information as to the alleged proceedings of the Canadian authorities at Digby, N.S., in the case of the American schooner "Jennie and Julia."

I have, &c.,

(Sd.)

L. S. SACKVILLE WEST.

TO THE MARQUIS OF LANSDOWNE, K. C. M. G.,  
&c., &c., &c.

— — —  
[Enclosure No. 1.]

*Mr. Bayard to Sir L. S. S. West.*

DEPARTMENT OF STATE,

WASHINGTON, 20th May, 1886.

MY DEAR MR. WEST,—Since writing you my last note of to-day's date, my attention has been called to a statement that the American schooner "Jennie and Julia," of Eastport Maine, having cleared from that port for Digby, N.S., made due entry at the latter port, and upon attempting to purchase a lot of herring for smoking, was warned that the vessel would be seized if herring were purchased for any purpose whatever, whereupon the vessel left without taking in cargo.

If, as it is to be inferred from the fact of the regular clearance and entry, the "Jennie and Julia" was documented for a trading voyage, the reported action of the Digby Collector should be looked into very sharply.

It would certainly not help an amicable adjustment of the present difficulties, if the Provincial authorities were to initiate a policy of commercial non-intercourse by refusing to permit exportation of fish in American bottoms.

The report is attracting much attention, and I have telegraphed to our Consular Agent at Digby for a statement of the facts.

I should be glad to receive from you any information you may have in relation to the Collector's action.

Very truly yours,

(Sd.) T. F. BAYARD.

To the Honorable

Sir LIONEL S. S. WEST,

&c., &c., &c.

No. 70.

(Telegram)

*Earl Granville to Lord Lansdowne.*

22nd May, 1886.

The United States Government is making representations respecting seizure of vessels. Her Majesty's Government desire to be furnished with detailed particulars regarding facts and legal position of Canadian Government. Desirable that you should lose no time in sending reply.

(Sd.) GRANVILLE.

No. 71.

(Telegram.)

*Lord Lansdowne to Earl Granville.*

22nd May, 1886.

Yours 22nd May, have sent despatches respecting seizure of vessels.

(Sd.) LANSDOWNE.

No. 72.

(Telegram.)

*Earl Granville to Lord Lansdowne.*

25th May, 1886.

On the 22nd May Mr. Phelps enquired of the Secretary of State for Foreign Affairs whether the action of the Canadian Government in seizing fishing vessels in territorial waters could not be discontinued and without prejudice and upon an undertaking to surrender them if required to do so, the seized vessels restored to their owners. Mr. Phelps having as to the interpretation of the treaty from an American point of view and Lord Rosebery having upheld the view taken by the Dominion the Secretary of State informed the American Minister that while desirous of maintaining most friendly relations Her Majesty's Government could hardly ask Canada to suspend her legal rights without adequate equivalent, Lord Rosebery then enquired as to the readiness of the United States Government to negotiate on the question.

(Sd.) GRANVILLE.

No. 73.

*Governor General to Earl Granville.*

[No. 73.]

OTTAWA, 26th May, 1886.

MY LORD,—With reference to my despatch, No. 160, of the 18th instant, I have the honour to forward to Your Lordship, herewith, a copy of a further  
No. 68. despatch from Sir Lionel West, in connection with Mr. Bayard's note on the question arising from the seizures of American fishing vessels in Canadian waters.

Yours, &amp;c,

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.

No. 74.

*Governor General to Earl Granville.*

OTTAWA, 26th May, 1886.

[No. 167.]

MY LORD,—With reference to the concluding paragraph of my despatch, No. 161, of the 19th instant, respecting the seizure of the American fishing schooner "Ella M. Doughty," I have the honour to inform Your Lordship that the vessel in question is being proceeded against in the same way as the "David J. Adams," viz., for violation of the Customs' Act of 1883, of the Dominion Fishery Act of 1868, and for contravention of the Treaty of 1818.

I have, &amp;c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.

No. 75.

*Lord Lansdowne to Earl Granville.*

27th May, 1886.

MY LORD,—With reference to Your Lordship's telegram of the 25th instant, the Government of the Dominion desires to reach a friendly settlement of the fisheries question. With this object it suspended all legal action for the protection of the fisheries last year, notwithstanding the fact that the Government of the United States retained the duties imposed by it on Canadian fish. Congress, however, declined to take action on the recommendation of the President. It would be impossible for the Dominion to abandon its rights again without a better assurance of a satisfactory result than the suggestion which has been made by the United States Minister. Private prosecutions for breach of the fishery law, which would certainly be resorted to by Canadian fishermen, could not now be prevented by the Government. The question of the legality of the seizures will be tested in court. Would it not be well that this should be disposed of in the first instance? An appeal to the Judicial Committee of the Privy Council will, of course, be open to either party.

Yours, &amp;c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.

No. 76.

*Lord Lansdowne to Earl Granville.*

27th May, 1886.

MY LORD,—With reference to my despatch No. 162, of the 19th May, the Bill in amendment of the Act respecting fishing by Foreign vessels will pass both Houses at the beginning of next week and come up for assent.

Vessels in any way contravening the Convention of 1818 are by it rendered liable to forfeiture.

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.

(Telegram.)

No. 77.

*Earl Granville to Lord Lansdowne.*

27th May, 1886.

Bayard to West, 10th May, Fisheries. Glad to receive by earliest opportunity report of your Ministers.

(Sd.) SECRETARY OF STATE.

(Telegram.)

No. 78.

*Lord Lansdowne to Earl Granville.*

27th May, 1886.

Referring to your telegram of the 27th. Report in forward state of preparation. Sent by next mail.

(Sd.) LANSDOWNE.

No. 79.

*From the Minister at Washington to Governor General.*

[No. 67.]

WASHINGTON, 29th May, 1886.

MY LORD,—I have the honour to enclose herewith to Your Excellency copy of the report of the Collector of Customs at Portland (Maine) in regard to the detention of the schooner "Sisters."

I have, &amp;c.,

(Sd.) L. S. S. WEST.

His Excellency

The GOVERNOR GENERAL.

[Enclosure No. 1.]

*(Washington Republican, 29th May, 1886.)*

## THE SEIZURE OF THE "SISTERS."

## A REPORT BY COLLECTOR ANDERSON ON THE SUBJECT.

Acting Secretary Fairchild yesterday received a report from Collector Anderson, at Portland, in regard to the alleged detention of the British schooner "Sisters," in which he says:—

"Herewith I transmit a statement of Jesse Ellis, master of British schooner 'Sisters,' of Yarmouth, N. S., relating to a penalty incurred by him in consequence of violation of provisions of section 2814 Revised Statutes of the United States. On this case I have respectfully to report that this vessel arrived and entered at this port under circumstances substantially as stated by Capt. Ellis. The 'clearance' he alludes to has on its face the single word 'fish' as a description of cargo. Nowhere on 'clearance' is any reference made to kind, condition, quantity, by whom shipped, or to whom consigned. Very likely the discrepancy between his statement and the fact arises through an inadvertence on the part of the person he employed to draw up the statement. The acting boarding officer at this port reported to me, through the surveyor, under date of the 24th instant, that this vessel 'arrived at this port to-day, and the captain failed to produce a manifest of the cargo on board said schooner.'

"In consequence of this the master was informed on entry that he was liable to a penalty of \$500 for failure to produce a manifest upon his arrival within the limits of this collection district, as provided by section 2814 Revised Statutes of the United States; that under an article of Treasury Regulations, 1884, relating to Customs and navigation laws, the case would

be submitted to the Secretary of the Treasury before enforcing the penalty. I believe the reasons he assigns for his failure to comply with the requirements of the navigation laws and customs regulations of the United States to be true. I have not discovered any attempt on his part to defraud the revenue. He presented a manifest in proper form on entry of his vessel, in which cargo was set up as taken on board at Farnsworth, N. S.; contents, 20,000 fresh mackerel, shipped by W. A. Killam and consigned to W. L. Clements & Co.; consignee's residence, Portland, and port of destination, Portland. In view of the fact that the morning papers of this city publish in full a statement of Capt. Ellis, as herein enclosed, I deem it proper to say that the document was not furnished the press by any officer connected with the Customs service at this port to my knowledge. I respectfully submit the case and await your instructions thereon."

Capt. Ellis' statement, referred to in the above letter, has already been published.

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No. 80.

(Telegram.)

*Sir Lionel West to Lord Lansdowne.*

30th May, 1886.

I have received a note from the Secretary of State in which he protests against the Bill No. 136, now before the House of Commons in Canada as "being in respect of conventions now existing between Great Britain and the United States an assumption of jurisdiction entirely unwarranted, and which is wholly denied by the United States." Instructions have been sent to the United States Minister in London to protest against the Bill. I am forwarding a copy of the note by mail.

(Sd.) WEST.

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No. 81.

*Sir L. West to Lord Lansdowne.*

[No. 69.]

WASHINGTON, 30th May, 1886.

MY LORD,—I have the honour to forward herewith for Your Excellency's information copy of a note which I have received from the Secretary of State, and to which my telegram of this day's date refers.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency

The MARQUIS OF LANSDOWNE, G.C.M.G.

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[Enclosure No. 1.]

*Mr. Bayard to Sir L. West:*

DEPARTMENT OF STATE,

WASHINGTON, 29th May, 1886.

SIR,—I have just received an official imprint of House of Commons Bill No. 136, now pending in the Canadian Parliament, entitled "An Act further to amend the Act respecting Fishing by Foreign Vessels," and am informed that it has passed the House and is now pending in the Senate.

This Bill proposes the forcible search, seizure and forfeiture of any foreign vessel within any harbour in Canada, or hovering within three marine miles of any of the coasts, bays, creeks or harbours in Canada, where such vessel has entered such waters for any purpose not permitted by the laws of nations, or by treaty or convention, or by any law of the United Kingdom or of Canada now in force.

I hasten to draw your attention to the wholly unwarranted proposition of the Canadian authorities, through their local agents, arbitrarily to enforce, according to their own construction, the provisions of any Convention between the United States and Great Britain, and, by the interpolation of language not found in any such Treaty, and by interpretation not claimed or conceded by either party to such Treaty, to invade and destroy the commercial rights and privileges of citizens of the United States under and by virtue of Treaty stipulation with Great Britain and statutes in that behalf made and provided.

I have also been furnished with a copy of Circular No. 371, purporting to be from the Customs Department at Ottawa, dated 7th May, 1886, and to be signed by J. Johnson, Commissioner of Customs, assuming to execute the provisions of the Treaty between the United States and Great Britain, concluded 20th October, 1818; and printed copies of a "Warning," purporting to be issued by George E. Foster, Minister of Marine and Fisheries, dated at Ottawa, 5th March, 1886, of a similar tenor, although capable of unequal results in its execution.

Such proceedings I conceive to be flagrantly violative of the reciprocal commercial privileges to which citizens of the United States are lawfully entitled under statutes of Great Britain and the well defined and publicly proclaimed authority of both countries, besides being in respect of the existing Conventions between the two countries an assumption of jurisdiction entirely unwarranted, and which is wholly denied by the United States.

In the interest of the maintenance of peaceful and friendly relations, I give you my earliest information on this subject, adding that I have telegraphed Mr. Phelps, our Minister at London, to make earnest protest to Her Majesty's Government against such arbitrary, unlawful, unwarranted and unfriendly action on the part of the Canadian Government and its officials; and have instructed Mr. Phelps to give notice that the Government of Great Britain will be held liable for all losses and injuries to citizens of the United States and their property caused by the unauthorized and unfriendly action of the Canadian Government to which I have referred.

I have, &c.,

(Sd.)

T. F. BAYARD.

No. 82.

*Minister at Washington to Governor General.*

[No. 70.]

WASHINGTON, 31st May, 1886.

MY LORD,—I have the honour to inform Your Excellency that the fine imposed on the Nova Scotia fishing schooner "Sisters," seized at Portland (Maine) for a violation of the Customs regulations, has been remitted by the Acting Secretary of the Treasury. I enclose herewith an article from the "New York Herald" in connection therewith.

I have, &c.,

(Sd.)

L. S. S. WEST.

His Excellency

The GOVERNOR GENERAL.

[Enclosure No. 1.]

*Extract from the New York Herald, of 31st May, 1886.*

"ERRING SISTERS, GO IN PEACE."

Mr. Fairchild, the Acting Secretary of the Treasury, has remitted the fine to which the Nova Scotia fishing schooner "Sisters," which was seized at Portland last Monday, was liable for want of a manifest. The "Herald" anticipated this remission. On the morning after the seizure we expressed our confidence that the Treasury Department would temper justice with mercy as soon as it received an official certificate of the facts which our correspondent at Portland already had ascertained and reported to us. The skipper was just as devoid of evil intention as were the captains and crews of those fishing schooners from Gloucester and Portland which the Canadians have seized and are prosecuting not only unmercifully but unjustly.

The difference between the conduct of the authorities on this side of the border and on the other side is a great one, and will not fail to be noticed wherever the fishery questions are discussed. No special merit, to be sure, attaches to our Treasury Department for its course in this case. It has done only what was to be expected of a civilized administration, and the Canadians have only themselves to blame for the contrast.

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No. 83.

(Telegram.)

*Earl Granville to Lord Lansdowne.*

3rd June, 1886.

The following telegram has been handed to Lord Rosebery by the United States' Minister. The telegram commences as follows:—

"Direct Lord Rosebery's attention immediately to the Bill No. 136 now pending in the Canadian Parliament. This Bill assumes power to execute the Convention of 1818. You will also call his attention to the circular No. 371, issued by the Commissioner of Customs for the Dominion, Mr. Johnson, which orders the seizure of vessels on violation of that Convention. Both of these are unwarranted and arbitrary assumptions of power against which you are desired to make an early protest. You are instructed in doing so, to state that the Government of Great Britain will be held responsible by that of the United States for whatever losses may be incurred by American citizens growing out of the dispossession of their property, detention or sale of their vessels lawfully within British North American territorial waters." The telegram ends here. Please telegraph the purport of circular No. 371 referred to.

(Sd.) GRANVILLE.

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No. 84.

(Telegram.)

*Earl Granville to Lord Lansdowne.*

4th June, 1886.

The terms of the concluding paragraph of the warning which was enclosed in your despatch dated 25th March, exclude all foreign vessels as well as those of the United States from Canadian bays. This is unintentional in all probability, as there is in the Act recited nothing to justify this. It would be well, however, to invite the attention of your Government to this point with a view to having the warning amended.

(Sd.) GRANVILLE.

(Telegram.)

No. 85.

*From Lord Lansdowne to Earl Granville.*

4th June, 1886.

With reference to Your Lordship's telegram of the 3rd June, the circular No. 371 issued by the Customs Department recites Article I of the Convention of 1818 and sections two, three and four of the Dominion Fisheries Act of 1868. It directs the Customs Officers to furnish with warning notice any foreign fishing vessels found within the three-mile limit, except for the four purposes specified as lawful in the Convention. If any vessel is found fishing, preparing to fish or violating the terms of the Convention by shipping men or supplies, or trading, or if hovering, does not within twenty-four hours of warning depart, the Collector is instructed to place an officer on board and telegraph to the Department of Fisheries, Ottawa.

(Sd.) LANSDOWNE.

(Telegram.)

No. 86.

*From Lord Lansdowne to Earl Granville.*

7th June, 1886.

Your telegram of the 4th June is received. The warning as it was issued at first contained a reference to all foreign vessels. The amended issue recites merely the Act and the Convention and omits the reference. The final paragraph of the Customs Circular No. 371 is open to objection, perhaps, as implying that the Convention of 1818 applies to all foreign vessels. Attention will be given to this point.

(Sd.) LANSDOWNE.

(Extract.)

No. 87.

*Lord Lansdowne to Earl Granville.*

QUEBEC, 7th June, 1886.

MY LORD,—Her Majesty's Minister at Washington has been good enough to communicate to me for my information, copy of a note received by him from the Secretary of State for the United States, in which the Bill is criticized not so much on account of its policy or because its introduction is regarded as inopportune and inconvenient, as upon the ground that any legislation by the Parliament of the Dominion for the purpose of interpreting and giving effect to a contract entered into by the Imperial Government is beyond the competence of that Parliament and "an assumption of jurisdiction entirely unwarranted" and, therefore, "wholly denied by the United States."

Your Lordship is, no doubt, aware that legislation of this kind has been frequently resorted to by the Parliament of the Dominion for the purpose of enforcing treaties or conventions entered into by the Imperial Government. In the present case the legislation proposed was introduced, not with the object of making a change in the terms of the Convention of 1818, nor with the intention of representing as breaches of the Convention any acts which are not now punishable as breaches of it. What the framers of the Bill sought was merely to amend the procedure by which the Convention is enforced, and to do this by attaching a particular penalty to a particular breach of the Convention after that breach had been proved before a competent tribunal. It must be remembered that the Convention itself is silent as to the procedure to be taken in enforcing it, and that effect has accordingly been given to its provisions at different times, both through the means of Acts passed, on the one side, by Congress, and on the other by the Imperial Parliament, as well as by the Legislatures of the British North American Provinces previous to Confederation, and since Confederation by the Parliament of the Dominion. The right of the Dominion Parliament to legislate for these purposes and the validity of such legislation as against the citizens of a foreign country has, as far as I am aware, not been seriously called in question. Such legislation, unless it is disallowed by the Imperial Government becomes part of the law of the Empire.

The Government of the United States has long been aware of the necessity of reference to the Dominion Parliament, in matters affecting Canadian interests, and has, I believe, never raised any objection to such reference. The Treaties of 1854 and 1871, so far as they related to the fisheries or to the commercial relations of the Dominion were made subject to ratification by her Legislature. In the same way, the treaty under which fugitive criminals from the United States into Canada are surrendered is carried into effect by means of a Canadian statute. If a foreigner commits a murder in Canada he is tried, convicted, and executed by virtue of a Canadian, and not of an Imperial Act of Parliament. Seizures of goods and vessels for breaches of the local Customs law have in like manner been made for many years past without any protest, on the ground that such laws involved an usurpation of power by the Colony.

Mr. Bayard's statement that the Dominion Government is seeking by its action in this matter to "invade and destroy the commercial rights and privileges secured to citizens of the United States, under and by virtue of treaty stipulations with Great Britain" is not warranted by the facts of the case. No attempt has been made either by the authorities entrusted with the enforcement of the existing law or by the Parliament of the Dominion to interfere with vessels engaged in *bona fide* commercial transactions upon the coast of the Dominion. The two vessels which have been seized are both of them beyond all question fishing vessels and not traders, and therefore liable, subject to the finding of the courts, to any penalties imposed by the law for the enforcement of the Convention of 1818, on parties violating the terms of that Convention.

When, therefore, Mr. Bayard protests against all such proceedings as being "flagrantly violative of reciprocal commercial privileges to which citizens of the United States are lawfully entitled under statutes of Great Britain, and the well defined and publicly proclaimed authority of both countries," and when he denies the competence of the Fishery Department to issue under the Convention of 1818, such a paper as the "Warning," dated 5th March, 1886, of which a copy has been supplied to Your Lordship, he is in effect denying to the Dominion, the right of taking any steps for the protection of its own rights secured under the Convention referred to.

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.,  
&c., &c., &c.

(Telegram.)

No. 88.

*From Lord Lansdowne to Earl Granville.*

8th June, 1886.

In reply to your telegram of the 4th June, the subjoined amendments are agreed to. In the last paragraph of the circular, third line, leave out from the word "for" to the word "water" which is in the fourth line. In the sixth line leave out from the word "if" to the word "trading" which is in the eighth line and insert the following words:—

"If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish." I have written a despatch on the subject which follows. A decision will not be arrived at in the case of "David J. Adams" for several weeks.

(Sd.) LANSDOWNE

(Extract.)

No. 89.

*Marquis of Lansdowne to Earl Granville.*

QUEBEC, 8th June, 1886.

MY LORD,—In reference to Your Lordship's telegrams of the 3rd and 4th inst., in which you have called the attention of my Government to the Customs Circular No. 371 and to the "Warning" enclosed therein, I think it desirable to make the following observations in explanation of the telegraphic replies which I have addressed to Your Lordship.

In your telegram of the 4th inst., Your Lordship pointed out that the terms of the concluding paragraph of the "Warning" in question had the effect of excluding not only vessels belonging to the United States but all foreign vessels from Canadian

bays and harbours, and you observed that this was probably not intentional as nothing in the Act recited would justify such an exclusion.

I have ascertained that the "Warning," as originally issued from the Department of Fisheries after reciting the 1st Article of the Convention of 1818, and sections 2, 3 and 4 of the Canadian Act of 1868, respecting fishing by foreign vessels, contained the following paragraph:—

"Therefore be it known, that by virtue of the Treaty Provisions and Act of Parliament above recited, all foreign vessels or boats are forbidden from fishing or taking fish by any means whatever within three marine miles of any of the coasts, bays, creeks and harbours in Canada, or to enter such bays, harbours and creeks except for the purpose of shelter and of repairing damages therein, of purchasing wood and obtaining water, and for no other purposes whatever; of all of which you will take notice and govern yourself accordingly."

The passage quoted would, as Your Lordship has pointed out, have affected all foreign vessels, whether belonging to the United States or not. The mistake was however, detected and the "Warning" issued in a revised form from which the paragraph which I have quoted was omitted and replaced by the words "of all of which you will take notice and govern yourself accordingly."

I enclose herewith copies of the warning in its original and in its amended form. It is possible that Your Lordship or the American Minister may have seen the warning before it had been amended in the manner which I have described.

The amended form which merely recites Art I. of the Convention of 1818 and the Canadian Statute of 1868, appears to me to be entirely free from objection. The latter of these Statutes is, as Your Lordship is aware, substantially the same as the Imperial Act of 1819 (59 Geo. III., cap. 58) although the provisions relating to hovering are taken from another Imperial Statute (9 Geo. III., cap. 35). The law of the United States as to hovering is, I believe, the same as that embodied in this Statute.

The concluding paragraphs of the circular No. 371 to which, and not to the warning, Your Lordship's telegram of the 4th of June may have been intended to refer, are also, I think, open to objection. After reciting the Dominion Act of 1868, which, like the Imperial Statute of 1819, applies to foreign vessels generally, the circular proceeds to mention specially certain acts as violations, not of either of the Statutes in question, but of the Convention of 1818, and declares that if "such vessels or boats," that is, any foreign fishing vessels or boats, are found committing those acts they are to be detained. As, however, the Convention has reference to the fishing rights of the United States and not to those of other foreign powers, the passages which I have quoted are, I think, certainly open to the criticism not only that they assume that the acts described are violations of the Convention, but that they seek to apply whatever penalties may be enforced against parties contravening the Convention to vessels to which those provisions are not properly applicable.

This point has been considered by my Government with every desire to revise the circular in such a manner as to remove all reasonable objections to it upon these or other grounds, and I have much pleasure in informing Your Lordship that the circular will be re issued with the following concluding paragraphs in lieu of those referred to above:—

"Having reference to the above you are requested to furnish any foreign fishing vessels, boats or fishermen found within three marine miles of the shore within your district with a printed copy of the warning enclosed herewith.

"If any fishing vessel or boat of the United States is found fishing or to have been fishing or preparing to fish, or if hovering within the three mile limit, does not depart within twenty-four hours after receiving such warning, you will place an officer on board of such vessel and at once telegraph the facts to the Fisheries Department at Ottawa and await instructions."

The effect of these words will be that every foreign fisherman found within the three mile limit will receive a warning which will make him aware of the state of

the law, while every fishing vessel belonging to the United States found contravening the existing Canadian Statutes, which, as I have already reminded your Lordship, in these respects follow closely those passed by the Imperial Parliament, will, if not departing within twenty-four hours after receiving such warning, be detained under the conditions described.

I trust that the above explanation will be satisfactory to your Lordship.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honorable

EARL GRANVILLE, K.G.,

&c., &c., &c.

[Enclosure No. 1.]

### WARNING.—TO ALL WHOM IT MAY CONCERN.

The Government of the United States having by notice terminated Articles 18 to 25, both inclusive, and Article 30, known as the Fishery Articles, of the Washington Treaty, attention is called to the following provision of the Convention between the United States and Great Britain, signed at London on the 20th October, 1818:—

Article 1st. "Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry and cure fish, on certain coasts, bays, harbors and creeks, of His Britannic Majesty's dominions in America, it is agreed between the high Contracting Parties, that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground."

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine miles, of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any manner what-ever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the Act of the Parliament of Canada, Cap. 61, of the Acts of 1868, "An Act respecting fishing by foreign vessels."

2nd. "Any commissioned officer of Her Majesty's Navy, serving on board of any vessel of Her Majesty's Navy, cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's Navy, Fishery Officer, or Stipendiary Magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, Sheriff, Magistrate or other person duly commissioned for that purpose, may go on board of any ship, vessel or boat, within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creek or harbors in Canada, and stay on board so long as she may remain within such place or distance."

3rd. "If such ship, vessel or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the Master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship,

vessel or boat into port and search her cargo, and may also examine the Master upon oath touching the cargo and voyage; and if the Master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and if such ship, vessel or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel or boat under the first section of this Act, such ship, vessel or boat, and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited."

4th. "All goods, ships, vessels and boats, and the tackle, rigging, apparel, furniture, stores and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years."

Of all of which you will take notice and govern yourself accordingly.

(Sd.) GEORGE E. FOSTER,  
*Minister of Marine and Fisheries.*

DEPARTMENT OF FISHERIES,  
OTTAWA, 5th March, 1886.

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No. 90.

*The Marquis of Lansdowne to Earl Granville.*

[No. 188.]

QUEBEC, 8th June, 1886.

MY LORD,—In reference to Sir Lionel West's letter to me of the 21st May, enclosing one from Mr. Bayard complaining of the treatment of the American schooner "Jennie and Julia," of Eastport, Maine, which vessel was represented to have, after she had made due entry at the port of Digby, N.S., attempted to purchase herrings for smoking and to have been thereupon warned, and compelled to leave without taking any cargo, I have the honor to enclose copy of a report which I have received from my Minister of Marine and Fisheries dealing fully with the case in question.

Your Lordship will observe that the "Jennie and Julia" is described as being to all intents and purposes a fishing vessel, fully equipped for fishing, and that as such she was regarded as debarred by the Convention of 1818 from trading in Canadian ports, and, therefore, warned to desist from so doing.

I have, &c.,

(Sd.) LANSDOWNE.

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[Enclosure No. 1.]

DEPARTMENT OF FISHERIES, CANADA, OTTAWA, JUNE 5TH, 1886.

With reference to a despatch from the British Minister at Washington, to His Excellency the Governor General, dated 21st May last, and enclosing a letter from Mr. Secretary Bayard, regarding the refusal of the Collector of Customs at Digby, N. S., to allow the United States' schooner "Jennie and Julia" the right of exercising commercial privileges at the said port, the undersigned has the honor to make the following observations:—

It appears that the "Jennie and Julia" is a vessel of about 14 tons register, that she was to all intents and purposes a fishing vessel, and at the time of her entry into the port of Digby had fishing gear and apparatus on board, and that the Collector fully satisfied himself of these facts. According to the master's declaration she was there to purchase fresh herring only, and wished to get them direct from the weir fishermen. The Collector acted upon his conviction that she was a fishing vessel and as such debarred by the Treaty of 1818 from entering Canadian ports for purposes of trade. He, therefore, in the exercise of his plain duty, warned her off.

The Treaty of 1818 is explicit in its terms, and by it United States' fishing vessels are allowed to enter Canadian ports for shelter, repairs, wood and water, and "for no other purpose whatever."

The undersigned is of the opinion that it cannot be successfully contended that a *bona fide* fishing vessel can, simply by declaring her intention of purchasing fresh fish for other than baiting purposes, evade the provisions of the Treaty of 1818 and obtain privileges not contemplated thereby. If that were admitted, the provision of the Treaty which excludes United States' fishing vessels for all purposes but the four above mentioned, would be rendered null and void and the whole United States' fishing fleet be at once lifted out of the category of fishing vessels, and allowed free use of Canadian ports for baiting, obtaining supplies and transshipping cargoes.

It appears to the undersigned that the question as to whether a vessel is a fishing vessel or a legitimate trader or merchant vessel is one of fact, and to be decided by the character of the vessel and the nature of her outfit, and that the class to which she belongs is not to be determined by the simple declaration of her master, that he is not at any given time acting in the character of a fisherman.

At the same time the undersigned begs again to observe that Canada has no desire to interrupt the long-established and legitimate commercial intercourse with the United States, but rather to encourage and maintain it, and that Canadian ports are at present open to the whole merchant navy of the United States on the same liberal conditions as heretofore accorded.

The whole respectfully submitted.

(Sd.)

GEO. E. FOSTER,  
*Minister of Marine and Fisheries.*

No. 91.

*Governor General to Earl Granville.*

[No. 193.]

QUEBEC, 9th June, 1886.

MY LORD,—I have the honor to forward herewith for Your Lordship's information, copies of two despatches I have received from Her Majesty's Minister at Washington in regard to the detention and subsequent release of the Canadian Schooner "Sisters," at Portland, Maine, for violation of the Customs regulations of the United States.

Nos. 79  
and 82.

2. The vessel in question arrived in the port of Portland with a cargo of fish, and became liable to a fine of \$500 for the failure of her captain to produce a manifest of her cargo upon his arrival within the limits of the Customs jurisdiction of the port. As, however, the United States' authorities were satisfied that there was no intention on the part of the captain of the "Sisters" to defraud the revenue, the fine was remitted and the vessel released.

3. I have communicated copies of Sir Lionel West's despatches to my Government.

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honorable  
EARL GRANVILLE, K.G.

No. 92.

*Governor General to Earl Granville.*

[No. 196.]

CITADEL, QUEBEC, 9th June, 1886.

MY LORD,—With reference to previous correspondence I have the honor to forward herewith for Your Lordship's information a copy of a despatch from Sir Lionel West, enclosing a note from Mr. Bayard, dated May 29, on questions arising out of the Bill to amend the "Dominion Fishery Act of 1868," recently passed through both Houses of the Dominion Parliament.

No. 81 and  
enclosure.

2. I have already made Your Lordship aware that the Bill referred to by Mr. Bayard was reserved by me for the signification of Her Majesty's pleasure thereon, upon the ground that as it affected matters forming the subject of negotiation between Her Majesty's Government and that of the United States, it was desirable that it should not come into operation until Her Majesty's Government should have had an opportunity of considering its provisions.

3. A copy of the warning referred to by Mr. Bayard was sent to Your Lordship in my despatch of 25th March, and I now enclose a copy of the Customs circular of 7th May, which is mentioned in Mr. Bayard's note.

4. I had the honor of intimating to Your Lordship by telegram on the 8th instant, that it had been found necessary to amend the wording of this circular, the terms of which as they originally stood would have affected all foreign vessels and not only those of the United States.

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honorable  
EARL GRANVILLE, K.G.

No. 93.

*Colonial Office to Governor General.*

DOWNING STREET, 9th June, 1886.

MY LORD,—I have the honor to transmit to you, for the information of Your Lordship's Government, copies of two despatches (received from the Foreign Office) which have been addressed by the Earl of Roseberry to Sir Lionel West, recording conversations held by His Lordship with the American Minister on the subject of the Fishery Question.

I have, &c.,

(Sd.) ROBERT G. W. HERBERT,  
for EARL GRANVILLE.

His Excellency  
The GOVERNOR GENERAL.

[Enclosure No. 1.]

*The Earl of Roseberry to Sir L. West.*

(No. 20. Treaty.)

FOREIGN OFFICE, 24th May, 1886.

SIR,—The American Minister called on me to-day, and said that he had received a telegram from Mr. Bayard late on Saturday night instructing him to ask me if the seizure of American fishing vessels in Canadian waters could not be discontinued, and the vessels already captured restored, of course, without prejudice, and on an undertaking to surrender them if required.

Mr. Phelps went on to argue the construction of the Treaty of 1818, and said that though, at a first glance, its provisions might seem to justify the Canadian authorities in the course which they had taken, a general view of its whole scope contradicted that assumption, which, in any case, was inconsistent with the cordial relations existing between the two countries. In reply, I reminded Mr. Phelps that that Treaty was concluded at a time when, after a war and a period of great bitterness, the relations between Great Britain and the United States were not so cordial as they are now.

As regarded the construction of the Treaty, I could not presume to argue with so eminent a lawyer as himself; I could not, however, refrain from expressing the opinion that the plain English of the clause seemed to me entirely to support the Canadian view. Nor was it the fault of the Canadians that they had been compelled to resort to the enforcement of the Treaty. I admitted, indeed, that the responsibility did not lie on the American Govern-

ment. But the Senate had refused to sanction any negotiation on the matter, and had therefore thrown back the Canadians on the provisions of the Treaty of 1818. As regarded the seizure of the vessels which Mr. Phelps had described as having transgressed unwittingly, I could only say but little, as I had received no intelligence beyond what was stated in the newspapers. If, however, they had erred unwittingly it was not our fault, for we had issued a formal warning to American fishermen that they would not be permitted, under the Treaty of 1818, to do certain things, and we had requested Mr. Bayard to issue a similar notice. He, however, had declined to do so. I could not, therefore, think that the American vessels had erred unwittingly, more especially, as, if I was rightly informed by the newspapers, there were suspicious and furtive circumstances connected with the case of the "David J. Adams," at any rate, which tended to prove that the captain was aware that he was acting illegally.

As to the substantial proposition of Mr. Bayard, I begged Mr. Phelps to return the following answer: No one, as he was aware, could be more anxious than I was to maintain the most cordial relations between the two countries. He well knew that I would go more than half way to meet Mr. Bayard in this matter, but it would be difficult to ask the Canadians to suspend their legal action if we had nothing to offer them in the way of a *quid pro quo*. What I would suggest would be this, that he should telegraph at once to Washington to tell Mr. Bayard that I would do my best to induce the Colonial authorities to suspend their action if some assurance could be given me of an immediate readiness to negotiate on the question. Mr. Phelps promised to do this.

I am, &c.,

(Signed) ROSEBERY.

[Enclosure No. 2.]

*Mr. Bayard to Mr. Phelps (communicated to the Earl of Rosebery by Mr. Phelps, May 29).*

(Telegraphic.)

May 27, 1886.

You will say to Lord Rosebery that every disposition exists on our part to arrive at an amicable and just solution of Canadian fishery and trade question, as the President has already manifested. Main point now is to have Treaty of 1818 so interpreted as not to destroy commercial intercourse, including purchase of bait for use in deep sea fishing. This was done by Great Britain in 1871, and its abandonment now would be inadmissible,\* and adhered to now would relieve hardship and exasperation caused by summary arrest of vessels. Present action of Canadian authorities is calculated to obstruct settlement.

[Enclosure No. 3.]

*The Earl of Rosebery to Sir L. West.*

(No. 21 A. Treaty.)

FOREIGN OFFICE, May 29, 1886.

SIR,—The American Minister called on me to-day and read me a telegram from Mr. Bayard, of which I enclose a copy.

He again discussed at some length the provisions of the Treaty of 1818, and said that the newspapers which had reached him from America treated the matter as of little moment, because the British Government were sure not to support the action of the Canadian Administration. He also alluded to a correspondence with Lord Kimberley in 1871, in which Lord Kimberley stated that the Imperial Government was the sole interpreter of the British view of Imperial Treaties, and that they were not able to support the Canadian view of the bait clause. Mr. Phelps finally urged that the action of the Canadian Government should be suspended, which would then conduce to a friendly state of matters, which might enable negotiations to be resumed.

I replied to Mr. Phelps that, as regards the strict interpretation of the Treaty of 1818, I was in the unfortunate position, that there were not two opinions in this country on the matter, and that the Canadian view was held by all authorities to be legally correct. If we are now under the provisions of the Treaty of 1818 it was by the action, not of Her Majesty's Government, or of the Canadian Government, but by the wish of the United States. I had offered to endeavor to procure the prolongation of the temporary arrangement of last year,

\*This word is doubtful as to correct reading of cypher.

in order to allow an opportunity for negotiating, and that had been refused. A Joint Commission had been refused, and, in fact, as any arrangement, either temporary or permanent, had been rejected by the United States, it was not a matter of option but a matter of course that we returned to the existing Treaty. As to Lord Kimberley's view, I had had no explanation from him on that point, and of course I entirely concurred with his opinion that the British Government were the interpreters of the British view of Imperial Treaties. As regarded the wish expressed by Mr. Phelps that the present action should be suspended, when possibly an opportunity might arrive for negotiation, I said that that amounted to an absolute concession of the Canadian position with no return whatever, and I feared that the refusal of the United States to negotiate, for so I could not help interpreting Mr. Bayard's silence in answer to my proposition, would produce a bad effect, and certainly would not assist the Imperial Government in their efforts to deal with this question. In the meantime, however, I begged him simply to assure Mr. Bayard that I had received his communication, and that we were still awaiting the Canadian case and the details of the other seizures, that when we had received these, for which we had telegraphed, I hoped to be in a better position for giving an answer. Mr. Phelps also touched on the seizures of these ships, and I said that the legality of that would be decided in a Court of Law, and Mr. Phelps objected that it would be a Dominion Court of Law and not an Imperial Court. I replied that an appeal would lie to the Courts in this country, and Mr. Phelps pointed out that that procedure would be expensive; but I reminded him again that it was not our fault that we had been thrown on the provisions of the Treaty of 1818.

I am, &c.,

(Sd.)

ROSEBERY.

[Enclosure No. 4.]

*The Earl of Rosebery to Sir L. West.*

(No. 24. Treaty.)

FOREIGN OFFICE, 2nd June, 1886.

SIR,—The American Minister informed me to-day, in the course of conversation, that he was at this moment preparing a statement of the American contention with regard to the recent seizures under the terms of the Convention of 1818. He entered into a long argument to show that seizure was not provided for by law as a penalty for the infraction of this clause; that what was provided for was a punishment for American vessels fishing within the forbidden limits. He said that his Government could not admit the interpretation which apparently was accepted by the Canadian Government, and he mentioned the fact that in any case the American fishermen had no notice of the action that was going to be taken. As to the latter point, I replied that that was not the fault of Her Majesty's Government. On the 18th March I had telegraphed to you to ask you to request the Secretary of State to issue a Notice such as we were about to issue to Canadian fishermen, and he had declined to do so. Mr. Phelps was not aware of this. I went on to say that the view of the American Government appeared to be this: "You are to accept our interpretation of the Treaty, whether it be yours or not, and in any case we will not negotiate with you." I said that that was not a tenable proposition. Mr. Phelps said that it was quite true that his Government, owing to circumstances of which I was aware, had not been able to negotiate, but as regarded the Treaty, he felt sure that he would be able to convince me that the American interpretation was correct. I said that, as regards the circumstances to which he had alluded, we had only to look to the United States' Government, and could not look beyond it. He would remember that at almost our first interview on my accession to office I had proposed to him to endeavour to procure the continuation of the recent arrangement for a year, although that arrangement was disadvantageous to Canada in that it gave the United States all it wanted, and gave Canada nothing in return. We had also pressed on the United States' Government the issue of a Joint Commission to investigate the matter, and that had also been refused. Further, on the 24th May, I made a proposal, personally indeed, but with all the weight which my official character could give, that Canadian action should be suspended, and negotiations should commence, and to this I had received no reply. In these circumstances, I could not feel that Her Majesty's Government had been wanting in methods of conciliation, and I begged him to send me his statement of his case as quickly as possible, for in the meantime there was such unanimity among our Legal Advisers as to the interpretation of the Treaty of 1818 that I had nothing to submit to them. As regards the cases themselves, I had as yet no details, nor was I in possession of the Bill or of the Circular to which Mr. Bayard's recent telegram referred.

I am, &c.,

(Sd.)

ROSEBERY.

## No. 94.

*Governor General to Earl Granville, K. G.*

[No. 199.]

QUEBEC, 14th June, 1886.

MY LORD,—I have the honour to enclose herewith a certified copy of an approved report of my Privy Council upon Mr. Bayard's notes of the 10th and 20th May, dealing with the seizure of the American fishing vessel "David J. Adams," and the questions affecting the rights of United States' fishermen within the territorial waters of the Dominion, which have arisen in consequence of that seizure.

2. The report bears the strongest testimony to the desire of my Government, not only to avoid any action which might unnecessarily interrupt the amicable and neighbourly relations of the two countries, but also to establish, if possible, upon a wider and mutually advantageous basis the commercial relations of Canada and the United States.

3. Your Lordship will observe that whatever action has been resorted to by the Dominion Government has been taken solely with the object of maintaining valuable rights secured to the subjects of Her Majesty by contracts entered into by the Imperial Government, and by legislation carrying out the terms of those contracts. The report expresses the conviction of my Government that such legislation, together with the administrative acts of those to whom has been entrusted the duty of giving effect to it, are not as the Secretary of State of the United States has asserted, usurpations of power on the part of the Canadian Legislature or of the Canadian Executive, but clearly within the competence of both.

4. In another portion of the report Your Lordship will find a statement of the reasons for which it is held that the provisions of the Convention of 1818 have not, as Mr. Bayard appears to suppose, been superseded or rendered of doubtful validity by subsequent laws or regulations affecting the trade of the two countries, but that they are still undoubtedly in force, and it is pointed out that now that the Convention has been once more brought into operation by the action, not of the Dominion, but of the United States, the Government of this country cannot consistently with its duty abandon or suspend any of the privileges secured by that Convention to its people.

5 Your Lordship will find that a full, and, I trust, satisfactory explanation has been given of the circumstances under which the "David J. Adams" was seized, and of the conduct of the officers of the Canadian Fisheries Police in dealing with that vessel. I may in conclusion again remind Your Lordship that in none of the cases to which Mr. Bayard's complaints have reference, has there been any interference with vessels other than those engaged in the fishing industry, and that there has never been any desire on the part of the Canadian Government in any way whatever to restrict the intercourse of other trading vessels frequenting the waters of the Dominion.

(Sd.) LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K.G.

[Enclosure No. 1.]

*CERTIFIED copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 14th June, 1886.*

The Committee of the Privy Council have had under consideration a report from the Minister of Marine and Fisheries upon the communications, under date the 10th and 20th May last, from the Hon. Mr. Bayard, Secretary of State of the United States, to Her Majesty's Minister at Washington, in reference to the seizure of the American fishing vessel "David J. Adams."

The Committee concur in the annexed report, and they advise that Your Excellency be moved to transmit a copy thereof, if approved, to the Right Hon. the Secretary of State for the Colonies.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
*Clerk, Privy Council for Canada.*

*Report of the Minister of Marine and Fisheries.*

[Enclosure No. 2.]

The undersigned, having had his attention called by Your Excellency to a communication from Mr. Bayard, Secretary of State of the United States, dated the 10th May, and addressed to Her Majesty's Minister at Washington, in reference to the seizure of the American fishing vessel "David J. Adams," begs leave to submit the following observations thereon:—

Your Excellency's Government fully appreciates and reciprocates Mr. Bayard's desire that the administration of the laws regulating the commercial interests and the mercantile marine of the two countries might be such as to promote good feeling and mutual advantage. Canada has given many indisputable proofs of an earnest desire to cultivate and extend her commercial relations with the United States, and it may not be without advantage to recapitulate some of those proofs.

For many years before 1854 the Maritime Provinces of British North America had complained to Her Majesty's Government of the continuous invasion of their inshore fisheries (sometimes accompanied, it was alleged, with violence) by American fishermen and fishing vessels.

Much irritation naturally ensued, and it was felt to be expedient by both Governments to put an end to this unseemly state of things by treaty, and at the same time to arrange for enlarged trade relations between the United States and the British North American Colonies. The Reciprocity Treaty of 1854 was the result by which not only were our inshore fisheries opened to the Americans, but provision was made for the free interchange of the principal natural products of both countries, including those of the sea.

Peace was preserved in our waters, and the volume of international trade steadily increased during the existence of this treaty, and until it was terminated in 1866—not by Great Britain, but by the United States.

In the following year Canada (then become a Dominion, and united to Nova Scotia and New Brunswick) was thrown back on the Convention of 1818, and obliged to fit out a Marine Police to enforce the laws and defend her rights. Still desiring, however, to cultivate friendly relations with her great neighbour, and not too suddenly to deprive American fishermen of their accustomed fishing grounds and means of livelihood, she readily acquiesced in the proposal of Her Majesty's Government for the temporary issue of annual licenses to fish, on payment of a moderate fee. Your Excellency is aware of the failure of that scheme. A few licenses were issued at first, but the applications for them soon ceased, and the American fishermen persisted in forcing themselves into our waters without leave or license.

Then came the recurrence, in an aggravated form, of all the troubles which had occurred anterior to the Reciprocity Treaty. There were invasions of our waters, personal conflicts between our fishermen and American crews, the destruction of nets, the seizure and condemnation of vessels, and intense consequent irritation on both sides. This was happily put an end to by the Washington Treaty of 1871. In the interval between the termination of the first treaty and the ratification of that by which it was evidently replaced, Canada on several occasions pressed without success, through the British Minister at Washington, for a renewal of the Reciprocity Treaty, or for the negotiation of another on a still wider basis.

When, in 1874, Sir Edward Thornton, then British Minister at Washington, and the late Hon. George Brown, of Toronto, were appointed joint Plenipotentiaries for the purpose of negotiating and concluding a treaty relating to "Fisheries, Commerce and Navigation," a provisional treaty was arranged by them with the United States' Government, but the Senate decided that it was not expedient to ratify it, and the negotiation fell to the ground.

The Treaty of Washington, while it failed to restore the provisions of the Treaty of 1854 for reciprocal free trade (except in fish), at least kept the peace, and there was tranquillity along our shores until July, 1885, when it was terminated again by the United States' Government and not by Great Britain.

With a desire to show that she wished to be a good neighbour and in order to prevent loss and disappointment on the part of the United States' Fishermen by their sudden exclusion from her waters in the middle of the fishing season, Canada continued to allow them for six

months all the advantages which the rescinded Fishery clauses had previously given them, although her people received from the United States none of the corresponding advantages which the Treaty of 1871 had declared to be an equivalent for the benefits secured thereby to the American Fishermen.

The President in return for this courtesy promised to recommend to Congress the appointment of a joint commission by the two Governments of the United Kingdom and the United States to consider the Fishery Question, with permission also to consider the whole state of the Trade relations between the United States and Canada.

This promise was fulfilled by the President, but the Senate rejected his recommendation and refused to sanction the Commission.

Under these circumstances, Canada, having exhausted every effort to procure an amicable arrangement has been driven again to fall back upon the Convention of 1818, the provisions of which she is now enforcing and will enforce in no punitive or hostile spirit, as Mr. Bayard supposes, but solely in protection of her Fisheries, and in vindication of the rights secured to her by Treaty.

Mr. Bayard suggests that "the Treaty of 1818 was between two nations, the United States of America and Great Britain, who, as the contracting parties, can alone apply authoritative interpretation thereto, and enforce the provisions by appropriate legislation."

As it may be inferred from this statement that the right of the Parliament of Canada to make enactments for the protection of the Fisheries of the Dominion, and the power of the Canadian officers to protect those Fisheries, are questioned, it may be well to state at the outset the grounds upon which it is conceived by the undersigned that the jurisdiction in question is clear beyond a doubt.

(1.) In the first place the undersigned would ask it to be remembered that the extent of the jurisdiction of the Parliament of Canada is not limited (nor was that of the Provinces before the Union) to the sea coast, but extends for three marine miles from the shore as to all matters over which any Legislative authority can in any country be exercised within that space. The legislation which has been adopted on this subject by the Parliament of Canada (and previously to Confederation by the Provinces) does not reach beyond that limit. It may be assumed that in the absence of any treaty stipulation to the contrary this right is so well recognized and established by both British and American law, that the grounds on which it is supported need not be stated here at large. The undersigned will merely add, therefore, to this statement of the position, that so far from the right being limited by the Convention of 1818 that Convention expressly recognizes it.

After renouncing the liberty to "take, cure or dry fish on or within three marine miles of any of the coasts, bays, creeks or harbours of Her Majesty's Dominions in America," there is a stipulation that while American fishing vessels shall be admitted to enter such bays, &c., "for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water," they shall be under such restrictions as may be necessary to prevent their taking, curing or drying fish therein, or in any other manner whatever abusing the privileges reserved to them.

(2.) "Appropriate legislation" on this subject was, in the first instance, adopted by the Parliament of the United Kingdom. The Imperial Statute 59 George III, chap. 34, was enacted in the year following the Convention in order to give that Convention force and effect. That Statute declared that except for the purposes before specified it should "not be lawful for any person or persons, not being a natural born subject of His Majesty, in any foreign ship, vessel or boat, nor for any person in any ship, vessel or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry or cure any fish of any kind whatever within three marine miles of any coasts, bays, creeks or harbours whatever in any part of His Majesty's Dominions in America, not included within the limits specified and described in the First Article of the said Convention, and that if such foreign ship, vessel or boat or any persons on board thereof, shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks or harbours within such parts of His Majesty's Dominions in America, out of the said limits as aforesaid, all such ships, vessels and boats together with their cargoes and all guns, ammunition, tackle, apparel, furniture and stores, shall be forfeited and shall and may be seized, taken, sued for, prosecuted, recovered and condemned by such and the like ways, means and methods and in the same courts as ships, vessels or boats may be forfeited, seized, prosecuted and condemned for any offence against any laws relating to the Revenue of Customs or the laws of trade and navigation, under any Act or Acts of the Parliament of Great Britain, or of the United Kingdom of Great Britain and Ireland; provided that nothing contained in this Act shall apply, or be construed to apply to the ships, or subjects of any Province, Power or State in amity with his Majesty, who are entitled by treaty with his Majesty to any privilege of taking, drying or curing fish on the coasts, bays, creeks or harbors, or within the limits in this Act described; provided always, that it shall and may be lawful for

any fisherman of the said United States to enter into any such bays or harbours of His Britannic Majesty's Dominions in America as are last mentioned for the purpose of shelter and repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever; subject nevertheless to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying or curing fish in the said bays or harbours, or in any other manner whatever abusing the said privileges by the said treaty and this Act reserved to them, and as shall for that purpose be imposed by any order or orders to be from time to time made by His Majesty in Council under the authority of this Act, and by any regulations which shall be issued by the Governor or person exercising the office of Governor in any such parts of His Majesty's Dominions in America, under or in pursuance of any such Order in Council as aforesaid.

"And that if any person or persons, upon requisition made by the Governor of Newfoundland, or the person exercising the office of Governor, or by any Governor in person exercising the office of Governor in any other parts of His Majesty's Dominions in America, as aforesaid, or by any officer or officers acting under such Governor, or person exercising the office of Governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbours, or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this Act, every such person so refusing or otherwise offending against this Act shall forfeit the sum of two hundred pounds, to be recovered in the Superior Court of Judicature of the Island of Newfoundland, or in the Superior Court of Judicature of the colony or settlement within or near to which such offence shall be committed, or by Bill, Plaint or Information in any of His Majesty's Courts of Record at Westminster, one moiety of such penalty to belong to His Majesty, His heirs and successors, and the other moiety to such person or persons as shall sue or prosecute for the same."

Dominion Acts, 31 Vic, Cap. 61.  
33 Vic, Cap. 16, now incorporated  
in Revised Statutes of 1886, Cap. 90  
Nova Scotia Acts, Revised Statutes,  
3rd series, C. 94, 29 Vic. (1866) C.  
35. New Brunswick Acts, 16 Vic.,  
(1853) C. 69. P. Edward Island Act  
6 Vic. (1843) C. 14.

The Acts passed by the Provinces now forming Canada, and also by the Parliament of Canada (now noted in the margin) are to the same effect, and may be said to be merely declaratory of the law as established by the Imperial Statute.

(3.) The authority of the Legislatures of the Provinces, and after Confederation, the authority of the Parliament of Canada, to make enactments to enforce the provisions of the Convention, as well as the authority of Canadian officers to enforce those Acts, rests on well-known constitutional principles.

Those Legislatures existed, and the Parliament of Canada now exists, by the authority of the Parliament of the United Kingdom of Great Britain and Ireland, which is one of the "nations" referred to by Mr. Bayard as the "contracting parties." The Colonial Statutes have received the sanction of the British Sovereign, who and not the nation is actually the party with whom the United States made the Convention. The officers who are engaged in enforcing the Acts of Canada or the laws of the Empire are Her Majesty's officers, whether their authority emanates directly from the Queen or from Her representative the Governor General.

The jurisdiction thus exercised cannot, therefore, be properly described in the language used by Mr. Bayard as a supposed and therefore questionable delegation of jurisdiction by the Imperial Government of Great Britain. Her Majesty governs in Canada as well as in Great Britain, the officers of Canada are Her officers, the Statutes of Canada are Her Statutes, passed on the advice of Her Parliament sitting in Canada.

It is, therefore, an error to conceive that because the United States and Great Britain were in the first instance the contracting parties to the Treaty of 1818, no questions arising under that Treaty can be "responsibly dealt with" either by the Parliament or by the authorities of the Dominion.

The raising of this objection now is the more remarkable as the Government of the United States has long been aware of the necessity of reference to the Colonial Legislatures in matters affecting their interests. The Treaties of 1854 and 1871 expressly provide that so far as they concerned the Fisheries or Trade relations of the Provinces, they should be subject to ratification by their several Legislatures, and seizures of American vessels and goods followed by condemnation for breach of the Provincial Customs laws, have been made for forty years without protest or objection on the part of the United States' Government.

The undersigned with regard to this contention of Mr. Bayard has further to observe that, in the proceedings which have recently been taken for the protection of the Fisheries, no attempt has been made to put any special or novel interpretation on the Convention of 1818. The seizures of the fishing vessels have been made in order to enforce the explicit

provisions of the Treaty, the clear and long established provisions of the Imperial Statute and of the Statutes of Canada, expressed in almost the same language.

The proceedings which have been taken to carry out the law of the Empire in the present case, are the same as those which have been taken from time to time during the period in which the Convention has been in force, and the seizures of vessels have been made under process of the Imperial Court of Vice-Admiralty established in the Provinces of Canada.

Mr. Bayard further observes that since the Treaty of 1818, "a series of laws and regulations affecting the trade between the North American Provinces and the United States have been respectively adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants," and that "the independent and yet concurrent action of the two Governments has affected a gradual extension from time to time of the provisions of Article I, of the Convention of July 3, 1815, providing for reciprocal liberty of commerce between the United States and the Territories of Great Britain in Europe, so as gradually to include the Colonial Possessions of Great Britain in North America and the West Indies within the limits of that Treaty."

The undersigned has not been able to discover in the instances given by Mr. Bayard any evidence that "the laws and regulations affecting the trade between the British North American Provinces and the United States," or that "the independent and yet concurrent action of the two Governments" have either extended or restricted the terms of the Convention of 1818, or affected in any way the right to enforce its provisions according to the plain meaning of the articles of the Treaty. On the contrary a reference to the 18th article of the Washington Treaty will show that the contracting parties made the Convention the basis of the further privileges granted by the Treaty, and it does not allege that its provisions are in any way extended or affected by subsequent legislation or acts of administration.

Mr. Bayard has referred to the proclamation of President Jackson, in 1830, creating reciprocal commercial intercourse "on terms of perfect equality of flag" between the United States and the British American dependencies, and has suggested that these "commercial privileges have since received a large extension, and that in some cases favours have been granted by the United States without equivalent concession," such as "the exemption granted by the Shipping Act of June 26, 1884 amounting to one-half of the regular tonnage dues on all vessels from British North America and West Indies entering ports of the United States."

He has also mentioned under this head "the arrangements for the transit of goods, and the remission by proclamation as to certain British ports and places, of the remainder of the tonnage tax, on evidence of equal treatment being shown" to United States vessels.

The proclamation of President Jackson, in 1830, had no relation to the subject of the fisheries, and merely had the effect of opening United States' ports to British vessels on terms similar to those which had already been granted in British ports to vessels of the United States. The object of these "laws and regulations," mentioned by Mr. Bayard, was purely of a commercial character, while the sole purpose of the Convention of 1818 was to establish and define the rights of the citizens of the two countries in relation to the fisheries on the British North American coast.

Bearing this distinction in mind, however, it may be conceded that substantial assistance has been given to the development of commercial intercourse between the two countries. But legislation in that direction has not been confined to the Government of the United States, as indeed Mr. Bayard has admitted, in referring to the case of the Imperial Shipping and Navigation Act of 1849.

For upwards of forty years, as has already been stated, Canada has continued to evince her desire for a free exchange of the chief products of the two countries. She has repeatedly urged the desirability of the fuller reciprocity of trade, which was established during the period in which the Treaty of 1854 was in force.

The laws of Canada, with regard to the registry of vessels, tonnage dues, and shipping generally, are more liberal than those of the United States. The ports of Canada in inland waters are free to vessels of the United States, which are admitted to the use of her canals on equal terms with Canadian vessels.

Canada allows free registry to ships built in the United States and purchased by British citizens, charges no tonnage or light dues on United States' shipping, and extends a standing invitation for a large measure of reciprocity in trade by her tariff legislation.

Whatever relevancy therefore the argument may have to the subject under consideration, the undersigned submits that the concessions which Mr. Bayard refers to as "favours" granted by the United States can hardly be said not to have been met by equivalent concessions on the part of the Dominion, and inasmuch as the disposition of Canada continues to be the same as was evinced in the friendly legislation just referred to, it would seem that Mr. Bayard's charges of showing "hostility to commerce under the guise of protection to inshore

fisheries," or of "interrupting ordinary commercial intercourse by harsh measures and unfriendly administration," is hardly justified.

The questions which were in controversy between Great Britain and the United States, prior to 1818, related not to shipping and commerce, but to the claims of United States' fishermen to fish in waters adjacent to the British North American Provinces.

Those questions were definitely settled by the Convention of that year, and although the terms of that Convention have since been twice suspended, first by the Treaty of 1854, and subsequently by that of 1871, and after the lapse of each of these two treaties the provisions made in 1818 came again into operation, and were carried out by the Imperial and Colonial authorities without the slightest doubt being raised as to their being in full force and vigour.

Mr. Bayard's contention that the effect of the legislation which has taken place under the Convention of 1818, and of Executive action thereunder, would be "to expand the restrictions and renunciations of that treaty, which related solely to inshore fishing, within the three mile limit, so as to affect the deep sea fisheries," and "to diminish and practically destroy the privileges expressly secured to American vessels to visit these inshore waters for the object of shelter and repair of damages, and purchasing wood and obtaining water," appears to the undersigned to be unfounded. The legislation referred to in no way affects these privileges, nor has the Government of Canada taken any action towards their restriction. In the cases of the recent seizures, which are the immediate subject of Mr. Bayard's letters, the vessels seized had not resorted to Canadian waters for any one of the purposes specified in the Convention of 1818 as lawful. They were United States' fishing vessels, and against the plain terms of the Convention had entered Canadian harbours. In doing so the "David J. Adams" was not even possessed of a permit "to touch and trade," even if such a document could be supposed to divest her of the character of a fishing vessel.

The undersigned is of opinion that while for the reasons which he has advanced there is no evidence to show that the Government of Canada has sought to expand the scope of the Convention of 1818, or to increase the extent of its restrictions, it would not be difficult to prove that the construction which the United States seek to place on that Convention would have the effect of extending very largely the privileges which their citizens enjoy under its terms. The contention that the changes which may from time to time occur in the habits of the fish taken off our coasts, or in the methods of taking them, should be regarded as justifying a periodical revision of the terms of the treaty, or a new interpretation of its provisions cannot be acceded to. Such changes may from time to time render the conditions of the contract inconvenient to one party or the other, but the validity of the agreement can hardly be said to depend on the convenience or inconvenience which it imposes from time to time on one or other of the contracting parties. When the operation of its provisions can be shown to have become manifestly inequitable, the utmost that good will and fair dealing can suggest is that the terms should be reconsidered and a new arrangement entered into, but this the Government of the United States does not appear to have considered desirable.

It is not however the case that the Convention of 1818 affected only the inshore fisheries of the British Provinces; it was framed with the object of affording a complete and exclusive definition of the rights and liberties which the fishermen of the United States were thenceforth to enjoy in following their vocation so far as these rights could be affected by facilities for access to the shores or waters of the British Provinces or for intercourse with their people. It is therefore no undue expansion of the scope of that Convention to interpret strictly those of its provisions by which such access is denied, except to vessels requiring it for the purposes specifically described.

Such an undue expansion would, upon the other hand, certainly take place, if, under cover of its provisions, or of any agreements relating to general commercial intercourse which may have since been made, permission were accorded to United States' fishermen to resort habitually to the harbours of the Dominion, not for the sake of seeking safety for their vessels or for avoiding risk of human life, but in order to use these harbours as a general base of operations from which to prosecute and organize with greater advantage to themselves the industry in which they are engaged. It was in order to guard against such an abuse of the provisions of the treaty that amongst them was included the stipulation that not only should the inshore fisheries be reserved to British fishermen but that the United States should renounce the right of their fishermen to enter the bays or harbours, excepting for the four specified purposes, which do not include the purchase of bait or other appliances, whether intended for the deep sea fisheries or not.

The undersigned, therefore, cannot concur in Mr. Bayard's contention that "to prevent the purchase of bait or any other supply needed for deep sea fishing would be to expand the Convention to objects wholly beyond the purview, scope and intent of the treaty," and "to give to it an effect never contemplated."

Mr. Bayard suggests that the possession by a fishing vessel of a permit to "touch and trade" should give her a right to enter Canadian ports, for other than the purposes named in the treaty, or, in other words, should give her perfect immunity from its provisions.

This must amount to a practical repeal of the treaty, because it would enable a United States' Collector of Customs by issuing a license originally intended for purposes of domestic Customs regulation to give exemption from the treaty to every United States' fishing vessel. The observation that similar vessels under the British flag have the right to enter the ports of the United States for the purchase of supplies, loses its force when it is remembered that the Convention of 1818 contained no restrictions on British vessels, and no renunciation of any privileges in regard to them.

Mr. Bayard states that in the proceedings prior to the Treaty of 1818 the British Commissioners proposed that United States' fishing vessels should be excluded "from carrying also merchandize," but that their proposition "being resisted by the American negotiators, was abandoned"; and goes on to say: "this fact would seem clearly to indicate that the business of fishing did not then, and does not now, disqualify vessels from also trading in the regular ports of entry." A reference to the proceedings alluded to will show that the proposition mentioned related only to United States vessels visiting those portions of the coasts of Labrador and Newfoundland on which the United States' fishermen had been granted the right to fish and to land for drying and curing fish, and the rejection of the proposal can at the utmost be supposed only to indicate that the liberty to carry merchandize might exist without objection in relation to these coasts, and is no ground for supposing that the right extends to the regular ports of entry, against the express words of the treaty.

The proposition of the British negotiators was to append to Art. I the following words: "It is therefore well understood that the liberty of taking, drying and curing fish, granted in the preceding part of this article, shall not be construed to extend to any privilege of carrying on trade with any of His Britannic Majesty's subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States."

It was also proposed to limit them to having on board such goods as might "be necessary for the prosecution of the fishery or the support of the fishermen while engaged therein, or in the prosecution of their voyages to and from the fishing grounds."

To this the American negotiators objected on the ground that the search for contraband goods and the liability to seizure for having them in possession would expose the fishermen to endless vexation, and in consequence the proposal was abandoned. It is apparent, therefore, that this proviso in no way referred to the bays or harbours outside of the limits assigned to the American fishermen, from which bays and harbours it was agreed, both before and after this proposition was discussed, that United States' fishing vessels were to be excluded for all purposes except than for shelter and repairs and purchasing wood and obtaining water.

If, however, weight is to be given to Mr. Bayard's argument that the rejection of a proposition advanced by either side during the course of the negotiations, should be held to necessitate an interpretation adverse to the tenor of such proposition, that argument may certainly be held to prove that American fishing vessels were not intended to have the right to enter Canadian waters for bait to be used even in the prosecution of the deep sea fisheries. The United States' negotiators in 1818, made the proposition that the words, "and bait" be added to the emuneration of the objects for which their fishermen might be allowed to enter and the proviso as first submitted had read: "Provided, however, that American fishermen shall be permitted to enter such bays and harbours for the purpose only of obtaining shelter, wood, water and bait." The addition of the two last words was, however, resisted by the British Plenipotentiaries and their omission acquiesced in by their American colleagues. It is moreover to be observed that this proposition could only have had reference to the deep sea fishing, because the inshore fisheries had already been specifically renounced by the representatives of the United States.

In addition to this evidence it must be remembered that the United States' Government admitted in the case submitted by them before the Halifax Commission in 1877, that neither the Convention of 1818 nor the treaty of Washington conferred any right or privilege of trading on American fishermen. The British case claimed compensation for the privilege which had been given since the ratification of the latter treaty to United States' fishing vessels to transfer cargoes, to outfit vessels, buy supplies, obtain ice, engage sailors, procure bait and traffic generally in British ports and harbours.

This claim was however successfully resisted, and in the United States case it is maintained: That the various incidental and reciprocal advantages of the treaty, such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the Treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of

them by the enforcement of existing laws or the re-enactment of former oppressive statutes. Moreover the treaty does not provide for any possible compensation for such privileges.

Now the existing laws referred to in this extract are the various statutes passed by the Imperial and Colonial Legislatures to give effect to the Treaty of 1818, which it is admitted in the said case could at any time have been enforced (even during the existence of the Washington Treaty) if the Canadian authorities had chosen to do so.

Mr. Bayard on more than one occasion intimates that the interpretation of the treaty and its enforcement are dictated by local and hostile feelings, and that the main question is being obscured by partisan advocacy and disturbed by the heat of local interest," and in conclusion expresses a hope that "ordinary commercial intercourse shall not be interrupted by harsh measures and unfriendly administration."

The undersigned desires emphatically to state that it is not the wish of the Government or the people of Canada to interrupt for a moment the most friendly and free commercial intercourse with the neighbouring Republic.

The mercantile vessels and the commerce of the United States have at present exactly the same freedom that they have for years passed enjoyed in Canada, and the disposition of the Canadian Government is to extend reciprocal trade with the United States beyond its present limits, nor can it be admitted that the charge of local prejudice or hostile feeling is justified by the calm enforcement, through the legal tribunals of the country of the plain terms of a treaty between Great Britain and the United States and of the Statutes which have been in operation for nearly seventy years excepting in intervals during which (until put an end to by the United States Government) special and more liberal provisions existed in relation to the commerce and fisheries of the two countries.

The undersigned has further to call attention to the letter of Mr. Bayard of the 20th May, relating also to the seizure of the "David J. Adams" in the port of Digby, Nova Scotia.

That vessel was seized, as has been explained on a previous occasion, by the commander of the Canadian steamer "Lansdowne," under the following circumstances:—

She was a United States' fishing vessel and entered the harbour of Digby for purposes other than those for which entry is permitted by the treaty and by the Imperial and Canadian Statutes.

As soon as practicable, legal process was obtained from the Vice-Admiralty Court at Halifax, and the vessel was delivered to the officer of that Court. The paper referred to in Mr. Bayard's letter as having been nailed to her mast, was doubtless a copy of the warrant which commanded the Marshall or his deputy to make the arrest.

The undersigned is informed there was no intention whatever of so adjusting the paper that its contents could not be read, but it is doubtless correct that the officer of the Court in charge declined to allow the document to be removed. Both the United States' Consul General and the captain of the "David J. Adams" were made acquainted with the reasons for the seizure, and the only ground for the statement that a respectful application to ascertain the nature of the complaint was fruitless, was that the commander of the "Lansdowne," after the nature of the complaint had been stated to those concerned, and was published and had become notorious to the people of both countries, declined to give the United States' Consul General a specific and precise statement of the charges upon which the vessel would be proceeded against, but referred him to his superior.

Such conduct on the part of the officer of the "Lansdowne" can hardly be said to have been "extraordinary" under the present circumstances.

The legal proceedings had at that time been commenced in the Court of Vice-Admiralty at Halifax where the United States' Consul General resides, and the officer at Digby could not have stated with precision, as he was called upon to do, the grounds on which the intervention of the Court had been claimed in the proceedings therein.

There was not in this instance the slightest difficulty in the United States' Consul General and those interested in the vessel obtaining the fullest information, and no information which could have been given by those to whom they applied was withheld.

Apart from the general knowledge of the offences which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the registry of the Court and from the solicitors for the Crown, and would have been furnished immediately on application to the authority to whom the commander of the "Lansdowne" requested the United States' Consul General to apply. No such information could have been obtained from the paper attached to the vessel's mast.

Instructions have, however, been given to the Commander of the "Lansdowne" and other officers of the Marine Police that in the event of any further seizures a statement in writing shall be given to the master of the seized vessel of the offences for which the vessel may be detained, and that a copy thereof shall be sent to the United States' Consul General at Halifax, and to the nearest United States' Consular Agent, and there can be no objection to the solicitor for the Crown being instructed likewise to furnish the Consul

General with a copy of the legal process in such case, if it can be supposed that any fuller information will thereby be given.

Mr. Bayard is correct in his statement of the reasons for which the "David J. Adams" was seized and is now held. It is claimed that that vessel violated the Treaty of 1818, and consequently the Statutes which exist for the enforcement of that Treaty, and it is also claimed that she violated the Customs laws of 1883.

The undersigned recommends that copies of these Statutes be furnished for the information of Mr. Bayard.

Mr. Bayard has in the same despatch recalled the attention of Her Majesty's Minister to the correspondence and action which took place in the year 1870, when the Fishery Question was under consideration, and especially to the instructions from the Lords of the Admiralty to Vice Admiral Wellesley, in which that officer, was directed to observe great caution in the arrest of American fishermen and to confine his action to one class of offences against the Treaty. Mr. Bayard, however, appears to have attached unwarranted importance to the correspondence and instructions of 1870 when he refers to them as implying an "understanding between the two Governments;" an understanding which should, in his opinion, at other times and under other circumstances, govern the conduct of the authorities, whether Imperial or Colonial, to whom under the laws of the Empire, is committed the duty of enforcing the Treaty in question.

When, therefore, Mr. Bayard points out the "absolute and instant necessity that now exists for a restriction of the seizure of American vessels charged with violations of the Treaty of 1818," to the conditions specified under these instructions it is necessary to recall the fact that in the year 1870 the principal cause of complaint on the part of Canadian fishermen was that the American vessels were trespassing on the inshore fishing grounds and interfering with the catch of mackerel in Canadian waters, the purchase of bait being then a matter of secondary importance.

It is probable that the action of the Imperial Government was influenced very largely by the prospect which then existed of an arrangement such as was accomplished in the following year by the Treaty of Washington, and that it may be inferred, in view of the disposition made apparent on both sides to arrive at such an understanding, that the Imperial authorities, without any surrender of Imperial or Colonial rights, and without acquiescing in any limited construction of the Treaty, instructed the Vice-Admiral to confine his seizures to the more open and injurious class of offences which were especially likely to be brought within the cognizance of the naval officers of the Imperial service.

The Canadian Government, as has already been stated, for six months left its fishing grounds open to American fishermen, without any corresponding advantage in return, in order to prevent loss to those fishermen and to afford time for the action of Congress on the President's recommendation that a joint commission should be appointed to consider the whole question relating to the fisheries.

That recommendation has been rejected by Congress. Canadian fish is, by prohibitory duties, excluded from the United States' market. The American fishermen clamour against the removal of these duties, and in order to maintain a monopoly of the trade, continue against all law to force themselves into our waters and harbours and make our shores their base for supplies, especially of bait, which is necessary to the successful prosecution of their business.

They hope by this course to supply the demand for their home market, and thus to make Canada indirectly the means of injuring her own trade.

It is surely, therefore, not unreasonable that Canada should insist on the rights secured to her by Treaty. She is simply acting on the defensive, and no trouble can arise between the two countries if American fishermen will only recognize the provisions of the Convention of 1818 as obligatory upon them, and, until a new arrangement is made, abstain both from fishing in her waters and from visiting her bays and harbours for any purposes save those specified in the Treaty.

In conclusion the undersigned would express the hope that the discussion which has arisen in this question may lead to renewed negotiations between Great Britain and the United States and may have the result of establishing extended trade relations between the Republic and Canada, and of removing all sources of irritation between the two countries.

(Sd.)                      GEORGE E. FOSTER,  
*Minister of Marine and Fisheries.*

No. 95.

*From Lord Lansdowne to Earl Granville.*

[No. 204.]

CASCAPEDIA, 18th June, 1886.

MY LORD,—I have the honour to forward herewith for Your Lordship's information a copy of the amended Customs circular No. 371, issued under the authority of the Government of Canada to the Collectors of Customs throughout the Dominion.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K. G.

[Enclosure No. 1.]

Circular No. 371.

CUSTOMS DEPARTMENT,

OTTAWA, 7th May, 1886.

SIR,—The Government of the United States having by notice terminated Articles 18 to 25, both inclusive, and Article 30, known as the Fishery Articles of the Washington Treaty, attention is called to the following provision of the Convention between the United States and Great Britain, signed at London, on the 20th October, 1818:—

Article 1st. "Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry and cure fish, on certain coasts, bays, harbours and creeks, of His Britannic Majesty's Dominion, in America, it is agreed between the high Contracting Parties, that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the Southern coast of Newfoundland which extends from Cape Ray to the Rameau Island, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland here above described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground."

"And the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish, on or within three marine miles, of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America, not included within the above mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the Act of the Parliament of Canada, Cap. 61, of the Acts of 1863, intituled: "An Act respecting fishing by foreign vessels."

2nd. "Any commissioned officer of Her Majesty's Navy, serving on board of any vessel of Her Majesty's Navy, cruising and being in the waters of Canada for the purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's Navy, Fishery Officer, or Stipendiary Magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries or any officer of the Customs of Canada, Sheriff, Magistrate or other person duly commissioned for that purpose, may go on board of any ship, vessel or boat, within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creek or harbours in Canada, and stay on board so long as she may remain within such place or distance."

3rd. "If such ship, vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and if such ship, vessel or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks or harbours of Canada, not included within the above mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel or boat under the first section of this Act, such ship, vessel or boat, and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited."

4th. "All goods, ships, vessels and boats, and the tackle, rigging, apparel, furniture, stores and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years."

Having reference to the above, you are requested to furnish any foreign fishing vessels, boats or fishermen found within three marine miles of the shore, within your district, with a printed copy of the "WARNING" enclosed herewith. If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or if hovering within the three mile limit, does not depart within twenty-four hours after receiving such "WARNING," you will please place an Officer on board such vessel, and at once telegraph the facts to the Fisheries Department at Ottawa, and await instructions.

(Sd.) J. JOHNSON,  
Commissioner of Customs.

(Telegram.)

No. 96.

*From Sir Lionel West to Governor General.*

17th June.

Please inform me whether the reply is authentic which appeared in the "Herald" of the 16th June as having been made by the Minister of Fisheries to a firm in Portland, State of Maine.

(Sd.) WEST.

(Telegram)

No. 97.

*Lord Lansdowne to Sir L. West.*

19th June, 1886.

The letter in the "Herald" is authentic, but the text has been given inaccurately. Reference was made only to fishing vessels.

(Sd.) LANSDOWNE.

(Telegram)

No. 98.

*Earl Granville to Lord Lansdowne.*

24th June, 1886.

The United States' Government raise question whether seizure of "David J. Adams" was justified by existing legislation, whether Imperial or Colonial, passed in order to enforce Art. I., Convention of 1818, or warranted by any other laws relative to Customs or otherwise. Her Majesty's Government anxious for reply from Dominion Government on this point.

(Sd.) SECRETARY OF STATE.

(Telegram.)

No. 99.

*Lord Granville to Lord Lansdowne.*

24th June, 1886.

"Annie M. Jordan"—send report in case of.

(Sd.) SECRETARY OF STATE.

No. 100.

*Colonial Office to the Governor General.*

DOWNING STREET, 24th June, 1886.

MY LORD,—With reference to Your Lordship's despatch of the 31st ultimo, and to my telegram of to-day's date, respecting the North American Fisheries question, I have the honour to transmit to you, for communication to your Government, copy of a letter from the Foreign Office on the subject.

I have, &amp;c.,

(Sd.) R. H. MEADE,  
for the Secretary of State.His Excellency  
THE GOVERNOR GENERAL.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 14th June, 1886.

SIR,—I am directed by the Earl of Rosebery to transmit to you, to be laid before Earl Granville, a copy of a note from the United States' Minister at this Court, containing representations respecting the recent seizures of American Fishing Vessels in Canadian Ports, and I am to state that His Lordship has referred this communication, as well as Mr. Bayard's note enclosed in Sir L. West's despatch Treaty No. 28 of the 11th ultimo, to the Law Officers of the Crown for any observations they may have to offer in anticipation of the detailed exposition of the views of the Canadian Government which Lord Rosebery hopes may now be received before long.

I am, &amp;c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure in No. 2.]

*Mr. Phelps to the Earl of Rosebery. (Received June 7.)*

LEGATION OF THE UNITED STATES, LONDON, 2nd June, 1886.

MY LORD,—Since the conversation I had the honour to hold with your Lordship on the morning of the 29th ultimo, I have received from my Government a copy of the Report of the Consul General of the United States at Halifax, giving full details and depositions relative to the seizure of the "David J. Adams," and the correspondence between the Consul General and the Colonial authorities in reference thereto.

The report of the Consul General, and the evidence annexed to it, appear fully to sustain the points I submitted to Your Lordship in the interview above referred to, touching the seizure of this vessel by the Canadian officials.

I do not understand it to be claimed by the Canadian authorities that the vessel seized had been engaged, or was intending to engage, in fishing within any limit prohibited by the Treaty of 1818. The occupation of the vessel was exclusively deep sea fishing, a business in

which it had a perfect right to be employed. The ground upon which the capture was made was that the master of the vessel had purchased of an inhabitant of Nova Scotia, near the port of Digby in that Province, a day or two before, a small quantity of bait to be used in fishing in the deep sea, outside the three-mile limit.

The question presented is whether under the terms of the Treaty, and the construction placed upon them in practice for many years by the British Government, and in view of the existing relations between the United States and Great Britain, that transaction affords a sufficient reason for making such a seizure, and for proceeding under it to the confiscation of the vessel and its contents.

I am not unaware that the Canadian authorities, conscious, apparently, that the affirmative of this proposition could not easily be maintained, deemed it advisable to supplement it with a charge against the vessel of a violation of the Canadian Customs Act of 1883, in not reporting her arrival at Digby to the Customs officer. But this charge is not the one on which the vessel was seized, or which must now be principally relied on for its condemnation, and standing alone could hardly, even if well founded, be the source of any serious controversy. It would be at most, under the circumstances, only an accidental and purely technical breach of a Custom-house Regulations, by which no harm was intended, and from which no harm came, and would, in ordinary cases, be easily condoned by an apology, and perhaps the payment of costs.

But trivial as it is, this charge does not appear to be well founded in point of fact. Digby is a small fishing settlement, and its harbour not defined. The vessel had moved about and anchored in the outer part of the harbour, having no business at or communication with Digby, and no reason for reporting to the officer of Customs.

It appears by the Report of the Consul-General to be conceded by the Customs authorities there, that fishing vessels have for forty years been accustomed to go in and out of the bay at pleasure, and have never been required to send ashore and report when they had no business with the port, and made no landing, and that no seizure had ever before been made or claimed against them for so doing.

Can it be reasonably insisted under these circumstances that by the sudden adoption, without notice, of a new rule, a vessel of a friendly nation should be seized and forfeited for doing what all similar vessels had for so long a period been allowed to do without question?

It is sufficiently evident that the claim of a violation of the Customs Act was an afterthought brought forward to give whatever added strength it might to the principal claim on which the seizure had been made.

Recurring, then, to the only real question in the case, whether the vessel is to be forfeited for purchasing bait of an inhabitant of Nova Scotia to be used in lawful fishing, it may be readily admitted that, if the language of the Treaty of 1818 is to be interpreted literally, rather than according to its spirit and plain intent, a vessel engaged in fishing would be prohibited from entering a Canadian port "for any purpose whatever," except to obtain wood or water, to repair damages, or to seek shelter. Whether it would be liable to the extreme penalty of confiscation for a breach of this prohibition, in a trifling and harmless instance, might be quite another question.

Such a literal construction is best refuted by considering its preposterous consequences. If a vessel enters a port to post a letter, or send a telegram, or buy a newspaper, to obtain a physician in case of illness, or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants in fire, flood, or pestilence, it would, upon this construction, be held to violate the Treaty stipulations maintained between two enlightened, maritime, and most friendly nations, whose ports are freely open to each other in all other places and under all other circumstances. If a vessel is not engaged in fishing, she may enter all ports. But if employed in fishing not denied to be lawful, she is excluded, though on the most innocent errand. She may buy water, but not food or medicine; wood, but not coal. She may repair rigging, but not purchase a new rope, though the inhabitants are desirous to sell it. If she even entered the port (having no other business) to report herself to the Custom House, as the vessel in question is now seized for not doing, she would be equally within the interdiction of the Treaty. If it be said these are extreme instances of violation of the Treaty, not likely to be insisted on, I reply that no one of them is more extreme than the one relied upon in this case.

I am persuaded that your Lordship will, upon reflection, concur with me that an intention so narrow, and in its results so unreasonable and so unfair, is not to be attributed to the High Contracting Parties who entered into this Treaty.

It seems to me clear that the Treaty must be construed in accordance with those ordinary and well-settled rules applicable to all written instruments, which, without such salutary assistance, must constantly fail of their purpose. By these rules the letter often gives way to the intent, or, rather, is only used to ascertain the intent. The whole document will be taken together, and will be considered in connection with the attendant circumstances, the situa-

tion of the parties, and the object in view. And thus the literal meaning of an isolated clause is often shown not to be the meaning really understood or intended.

Upon these principles of construction, the meaning of the clause in question does not seem doubtful. It is a Treaty of friendship, and not of hostility. Its object was to define and protect the relative rights of the people of the two countries in these fisheries, not to establish a system of non-intercourse, or the means of mutual and unnecessary annoyance. It should be judged in view of the general rules of international comity, and of maritime intercourse and usage, and its restrictions considered in the light of the purposes they were designed to serve.

Thus regarded, it appears to me clear that the words, "for no other purpose whatever," as employed in the Treaty, mean no other purposes inconsistent with the provisions of the Treaty, or prejudicial to the interest of the provinces or their inhabitants, and were not intended to prevent the entry of American fishing vessels into Canadian ports for innocent and mutually beneficial purposes, or unnecessarily to restrict the free and friendly intercourse customary between all civilized maritime nations, and especially between the United States and Great Britain. Such, I cannot but believe, is the construction that would be placed upon this Treaty by an enlightened Court of Justice.

But even were it conceded that if the treaty was a private contract instead of an international one, a court, in dealing with an action upon it, might find itself hampered by the letter from giving effect to the intent, that would not be decisive of the present case.

The interpretation of treaties between nations in their intercourse with each other proceeds upon broader and higher considerations. The question is not what is the technical effect of the words, but what is the construction most consonant to the dignity, the just interests, and the friendly relations of the sovereign powers. I submit to your Lordship that a construction so harsh, so unfriendly, so unnecessary, and so irritating as that set up by the Canadian authorities is not such as Her Majesty's Government has been accustomed either to accord or to submit to. It would find no precedent in the history of British diplomacy, and no provocation in any action or assertion of the Government of the United States.

These views derive great if not conclusive force from the action of the British Parliament on the subject, adopted very soon after the Treaty of 1818 took effect, and continued without change to the present time. An Act of Parliament (59 Geo. III, cap. 38) was passed on the 14th June, 1819, to provide for carrying into effect the provisions of the treaty. After reciting the terms of the treaty, it enacts (in substance) that it shall be lawful for His Majesty, by Orders in Council, to make such regulations and to give such directions, orders, and instructions to the Governor of Newfoundland, or to any officer or officers in that station, or to any other persons, "as shall or may be from time to time deemed proper and necessary for the carrying into effect the purposes of said convention with relation to the taking, drying, and curing of fish by inhabitants of the United States of America, in common with British subjects, within the limits set forth in the aforesaid convention."

It further enacts that any foreign vessel engaged in fishing or preparing to fish within three marine miles of the coast (not authorized to do so by treaty) shall be seized or forfeited upon prosecution in the proper court.

It further provides as follows:—

"That it shall and may be lawful for any fisherman of the said United States to enter into any such bays or harbours of His Britannic Majesty's dominions in America as are last mentioned, for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever; subject, nevertheless, to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying, or curing fish in the said bays or harbours, or in any other manner whatever abusing the said privileges by the said treaty and this Act reserved to them, and as shall for that purpose be imposed by any Order or Orders to be from time to time made by His Majesty in Council under the authority of this Act; and by any regulations which shall be issued by the Governor, or person exercising the office of Governor, in any such parts of His Majesty's dominions in America, under or in pursuance of any such Order in Council as aforesaid."

It further enacts as follows:—

"That if any person or persons, upon requisition made by the Governor of Newfoundland, or the person exercising the office of Governor, or by any Governor or person exercising the office of Governor in any other parts of His Majesty's dominions in America as aforesaid, or by any officer or officers acting under such Governor or person exercising the office of Governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbours; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this Act; every such person so refusing, or otherwise offending against this Act, shall forfeit the sum of £200, to be recovered," &c.

It will be perceived from these extracts, and still more clearly from a perusal of the entire Act, that while reciting the language of the treaty in respect to the purposes for which Ameri

can fishermen may enter British ports, it provides no forfeiture or penalty for any such entry, unless accompanied either (1) by fishing, or preparing to fish, within the prohibited limits; or (2) by the infringement of restrictions that may be imposed by Orders in Council to prevent such fishing, or the drying or curing of fish, or the abuse of privileges reserved by the treaty; or (3) by a refusal to depart from the bays or harbours upon proper requisition.

It thus plainly appears that it was not the intention of Parliament, nor its understanding of the treaty, that any other entry by an American fishing vessel into a British port should be regarded as an infraction of its provisions, or as affording the basis of proceedings against it.

No other Act of Parliament for the carrying out of this treaty has ever been passed. It is unnecessary to point out that it is not in the power of the Canadian Parliament to enlarge or alter the provisions of the Act of the Imperial Parliament, or to give to the treaty either a construction or a legal effect not warranted by that Act.

But until the effort which I am informed is now in progress in the Canadian Parliament for the passage of a new Act on this subject, introduced since the seizures under consideration, I do not understand that any statute has ever been enacted in that Parliament which attempts to give any different construction or effect to the treaty from that given by the Act of 59 George III.

The only Provincial Statutes which, in the proceedings against the "David J. Adams," that vessel has thus far been charged with infringing are the Colonial Acts of 1868, 1870, and 1883. It is therefore fair to presume that there are no other Colonial Acts applicable to the case, and I know of none.

The Act of 1868, among other provisions not material to this discussion, provides for a forfeiture of foreign vessels "found fishing, or preparing to fish, or to have been fishing in British waters within three marine miles of the coast;" and also provides a penalty of \$400 against a master of a foreign vessel within the harbour who shall fail to answer questions put in an examination by the authorities. No other Act is, by this statute, declared to be illegal, and no other penalty or forfeiture is provided for.

The very extraordinary provisions in this statute for facilitating forfeitures, and embarrassing defence against or appeal from them, not material to the present case, would, on a proper occasion, deserve very serious attention.

The Act of 1870 is an amendment of the Act just referred to, and adds nothing to it affecting the present case.

The Act of 1883 has no application to the case, except upon the point of the omission of the vessel to report to the Customs Officer, already considered.

It results, therefore, that, at the time of the seizure of the "David J. Adams" and other vessels, there was no Act whatever, either of the British or Colonial Parliaments, which made the purchase of bait by those vessels illegal or provided for any forfeiture, penalty, or proceedings against them for such transaction. And even if such purchase could be regarded as a violation of that clause of the treaty which is relied on, no law existed under which the seizure could be justified. It will not be contended that Custom House authorities or colonial courts can seize and condemn vessels for a breach of the stipulations of a treaty, when no legislation exists which authorizes them to take cognizance of the subject, or invests them with any jurisdiction in the premises. Of this obvious conclusion the Canadian authorities seem to be quite aware. I am informed that since the seizures they have pressed, or are pressing, through the Canadian Parliament in much haste an Act which is designed, for the first time in the history of the legislation under this treaty, to make the facts upon which the American vessels have been seized illegal, and to authorize proceedings against them therefor.

What the effect of such an Act will be in enlarging the provisions of an existing treaty between the United States and Great Britain need not be considered here. The question under discussion depends upon the treaty, and upon such legislation, warranted by the treaty, as existed when the seizures took place.

The practical construction given to the treaty down to the present time has been in entire accord with the conclusions thus deduced from the Act of Parliament. The British Government has repeatedly refused to allow interference with American fishing vessels, unless for illegal fishing, and has given explicit orders to the contrary.

On the 26th May, 1870, Mr. Thornton, the British Minister at Washington, communicated officially to the Secretary of State of the United States copies of the orders addressed by the British Admiralty to Admiral Wellesley, commanding Her Majesty's naval forces on the North American Station, and of a letter from the Colonial Department to the Foreign Office, in order that the Secretary might "see the nature of the instructions to be given to Her Majesty's and the Canadian officers employed in maintaining order at the fisheries in the neighbourhood of the coasts of Canada." Among the documents thus transmitted is a letter from the Foreign Office to the Secretary of the Admiralty, in which the following language is contained:—

"The Canadian Government has recently determined, with the concurrence of Her Majesty's Ministers, to increase the stringency of the existing practice of dispensing with the the warnings hitherto given, and seizing at once any vessel detected in violating the law.

"In view of this change, and of the questions to which it may give rise, I am directed by Lord Granville to request that you will move their Lordships to instruct the officers of Her Majesty's ships employed in the protection of the fisheries that they are not to seize any vessel unless it is evident, and can be clearly proved, that the offence of fishing has been committed, and the vessel itself captured, within three miles of land."

In the letter from the Lords of the Admiralty to Vice-Admiral Wellesley of the 5th May, 1870, in accordance with the foregoing request, and transmitting the letter above quoted from, there occurs the following language:—

"My Lords desire me to remind you of the extreme importance of Commanding Officers of the ships selected to protect the fisheries exercising the utmost discretion in carrying out their instructions, paying special attention to Lord Granville's observation, that no vessel should be seized unless it is evident, and can be clearly proved, that the offence of fishing has been committed, and that the vessel is captured within three miles of land."

Lord Granville, in transmitting to Sir John Young the aforesaid instructions, makes use of the following language:—

"Her Majesty's Government do not doubt that your Ministers will agree with them as to the propriety of these instructions, and will give corresponding instructions to the vessels employed by them."

These instructions were again officially stated by the British Minister at Washington, to the Secretary of State of the United States, in a letter dated the 11th June, 1870.

Again, in February, 1871, Lord Kimberley, Colonial Secretary, wrote to the Governor General of Canada as follows:—

"The exclusion of American fishermen from resorting to Canadian ports, except for the purpose of shelter, and of repairing damages therein, purchasing wood, and of obtaining water, might be warranted by the letter of the Treaty of 1818, and by the terms of the Imperial Act 59 Geo. III. cap. 38; but Her Majesty's Government feel bound to state that it seems to them an extreme measure, inconsistent with the general policy of the Empire, and they are disposed to concede this point to the United States Government, under such restrictions as may be necessary to prevent smuggling, and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British subjects."

And in a subsequent letter from the same source to the Governor General, the following language is used:—

"I think it right, however, to add that the responsibility of determining what is the true construction of a Treaty made by Her Majesty with any foreign Power must remain with Her Majesty's Government, and that the degree to which this country would make itself a party to the strict enforcement of the Treaty rights may depend not only on the literal construction of the Treaty, but on the moderation and reasonableness with which these rights are asserted."

I am not aware that any modification of these instructions, or any different rule from that therein contained, has ever been adopted or sanctioned by Her Majesty's Government.

Judicial authority upon this question is to the same effect. That the purchase of bait by American fishermen in the provincial ports has been a common practice is well known, but in no case, so far as I can ascertain, has a seizure of an American vessel ever been enforced on the ground of the purchase of bait, or of any other supplies. On the hearing before the Halifax Fisheries Commission in 1877-78 this question was discussed, and no case could be produced of any such condemnation. Vessels shown to have been condemned were in all cases adjudged guilty either of fishing, or preparing to fish, within the prohibited limit.

And in the case of the "White Fawn," tried in the Admiralty Court at New Brunswick before Judge Hazen in 1870, I understand it to have been distinctly held that the purchase of bait, unless proved to have been in preparation for illegal fishing, was not a violation of the Treaty nor of any existing law, and afforded no ground for proceedings against the vessel.

But even were it possible to justify on the part of the Canadian authorities the adoption of a construction of the Treaty entirely different from that which has always heretofore prevailed, and to declare those acts criminal which have hitherto been regarded as innocent, upon obvious grounds of reason and justice, and upon common principles of comity to the United States' Government, previous notice should have been given to it or to the American fishermen of the new and stringent restrictions it was intended to enforce.

If it was the intention of Her Majesty's Government to recall the instructions which I have shown had been previously and so explicitly given relative to interference with American vessels, surely notice should have been given accordingly.

The United States have just reason to complain, even if these restrictions could be justified by the Treaty, or by the Acts of Parliament passed to carry it into effect, that they should be enforced in so harsh and unfriendly a manner, without notice to the Government of the change of policy, or to the fishermen of the new danger to which they were thus exposed.

In any view, therefore, which it seems to me can be taken of this question, I feel justified in pronouncing the action of the Canadian authorities in seizing and still retaining the "David J. Adams" to be not only unfriendly and discourteous, but altogether unwarrantable.

The seizure was much aggravated by the manner in which it was carried into effect. It appears that four several visitations and searches of the vessel were made by boats from the Canadian steamer "Lansdowne" in Annapolis Basin, Nova Scotia. The "Adams" was finally taken into custody, and carried out of the Province of Nova Scotia across the Bay of Fundy and into the port of St. John, New Brunswick; and, without explanation or warning, on the following Monday, the 10th May, taken back by an armed crew to Digby, in Nova Scotia. That, in Digby, the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such manner as to prevent its contents being read, and the request of the Captain of the "David J. Adams," and of the United States' Consul General, to be allowed to detach the writ from the mast, for the purpose of learning its contents, was positively refused by the provincial official in charge. Nor was the United States' Consul General able to learn from the Commander of the "Lansdowne" the nature of the complaint against the vessel, and his respectful application to that effect was fruitless.

From all the circumstances attending this case, and other recent cases like it, it seems to me very apparent that the seizure was not made, for the purpose of enforcing any right or redressing any wrong. As I have before remarked, it is not pretended that the vessel had been engaged in fishing, or was intended to fish, in the prohibited waters, or that it had done, or was intending to do, any other injurious act. It was proceeding upon its regular and lawful business of fishing in the deep sea. It had received no request, and, of course, could have disregarded no request, to depart, and was in fact departing when seized; nor had its master refused to answer any questions put by the authorities.

It had violated no existing law, and had incurred no penalty that any known statute imposed.

It seems to me impossible to escape the conclusion that this and other similar seizures were made by the Canadian authorities for the deliberate purpose of harassing and embarrassing the American fishing vessels in the pursuit of their lawful employment, and the injury which would have been a serious one if committed under a mistake, is very much aggravated by the motives which appear to have prompted it.

I am instructed by my Government earnestly to protest against these proceedings as wholly unwarranted by the Treaty of 1818, and altogether inconsistent with the friendly relations hitherto existing between the United States and Her Majesty's Government; to request that the "David J. Adams" and the other American fishing vessels now under seizure in Canadian ports be immediately released; and that proper orders may be issued to prevent similar proceedings in the future; and I am also instructed to inform you that the United States will hold Her Majesty's Government responsible for all losses which may be sustained by American citizens in the dispossession of their property growing out of the search, seizure, detention, or sale of their vessels lawfully within the territorial waters of British North America.

The real source of the difficulty that has arisen is well understood. It is to be found in the irritation that has taken place among a portion of the Canadian people on account of the termination, by the United States' Government, of the Treaty of Washington on the 1st July last, whereby fish imported from Canada into the United States, and which, so long as that Treaty remained in force, was admitted free, is now liable to the import duty provided by the General Revenue Laws. And the opinion appears to have gained ground in Canada that the United States may be driven, by harassing and annoying their fishermen, into the adoption of a new Treaty by which Canadian fish shall be admitted free.

It is not necessary to say that this scheme is likely to prove as mistaken in policy as it is indefensible in principle. In terminating the Treaty of Washington the United States were simply exercising a right expressly reserved to both parties by the Treaty itself, and of the exercise of which by either party neither can complain. They will not be coerced by wanton injury into the making of a new one. Nor would a negotiation that had its origin in mutual irritation be promising of success. The question now is not what fresh Treaty may or might be desirable, but what is the true and just construction, as between the two nations, of the Treaty that already exists.

The Government of the United States, approaching this question in the most friendly spirit, cannot doubt that it will be met by Her Majesty's Government in the same spirit, and feels every confidence that the action of Her Majesty's Government in the premises will be

such as to maintain the cordial relations between the two countries that have so long happily prevailed.

I have, &c.,

(Sd.) E. J. PHELPS.

(Telegram.)

No. 101.

*Lord Lansdowne to Earl Granville.*

26th June, 1886.

Your Lordship's telegrams of the 24th inst. have been received. It was decided by the Vice-Admiralty Court in 1871 that the buying of bait was evidence of preparing to fish. The master of the "D. J. Adams" having purchased bait, that vessel becomes liable under the Imperial Statute of 1819, section 2. There is also a Canadian Statute to the same effect. The master of the "Adams" is also liable to a penalty for entering Canadian waters for a purpose which the Convention of 1818 does not recognize. The vessel is liable also under the Customs Act until the penalty of \$400 for not making proper entry at the Custom House has been paid. Nothing concerning the "Annie M. Jordan" is known here.

(Sd.) LANSDOWNE.

No. 102.

*The Governor General to the Minister at Washington.*

[No. 67.]

CASCAPEDIA, 30th June, 1886.

SIR,—With reference to your despatches, noted in the margin, forwarding notes from Mr. Bayard, dated 10th and 20th of May last, upon questions arising out of the seizure of American fishing vessels in Canadian territorial waters, I have the honour to transmit herewith, for your information, a copy of a minute of my Privy Council, covering a report by the Minister of Marine and Fisheries upon the notes referred to.

Enclosure No. 1  
of No. 94.

I have, &c.,

(Sd.) LANSDOWNE.

The Honourable

Sir L. S. SACKVILLE WEST, K.C.M.G.

(Telegram.)

No. 103.

*Earl Granville to Lord Lansdowne.*

6th July, 1886.

It is asserted by the United States' Minister that American vessels have been warned by the Collector of Customs at Canso to keep three miles outside a line drawn from Canso to St. Esprit, also outside a similar line extending from North Cape to East Point in Prince Edward Island.

(Sd.) GRANVILLE.

No. 104.

*Minister at Washington to Governor General.*

[No. 83]

WASHINGTON, 8th July, 1886.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch No. 67 of the 30th ultimo, forwarding copy of a report by the Minister of Marine and Fisheries on Mr. Bayard's notes of the 10th and 20th of May last, respecting the seizure of American fishing vessels in Canadian waters.

I have, &amp;c.,

(Sd.)

L. S. S. WEST.

His Excellency  
THE GOVERNOR GENERAL.

(Telegram.)

No. 105.

*Lord Lansdowne to Earl Granville.*

12th July, 1886.

With respect to Your Lordship's telegram of the 6th inst, I have ascertained that no warning was issued by the Collector of Customs at Canso other than the official warning which has been seen by you. In conversation with the master of a fishing vessel the Collector expressed his opinion that the headland line ran from Cranberry Island to St. Esprit, but this was not authorized by my Government in any manner.

(Sd.)

LANSDOWNE.

No. 106.

*From Colonial Office to Governor General.*

DOWNING STREET, 15th July, 1886.

MY LORD,—I have the honour to acknowledge the receipt of your despatch of the 8th of June last, and to acquaint you that Her Majesty's Government observe with satisfaction the amendments which have been made in the Customs Circular No. 371 and in the warning to be given to the United States' fishing vessels frequenting the waters of Canada.

I have, &amp;c.,

(Sd.)

GRANVILLE.

His Excellency  
THE GOVERNOR GENERAL.

No. 107.

*Colonial Office to Governor General.*

DOWNING STREET, 15th July, 1886.

MY LORD,—With reference to my telegram of the 6th of July and to your telegraphic reply of the 12th instant, relating to warnings alleged to have been given to fishing vessels of the United States by the Collector of Customs at Canso, I have the

honour to transmit to you the accompanying copy of a letter from the Foreign Office with its enclosure on which my telegram was founded.

I should be glad to receive a report from your Government at their early convenience on the subject of these papers.

I have, &c.,

(Sd.)

GRANVILLE.

His Excellency

THE GOVERNOR GENERAL.

[Enclosure No. 1.]

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 30th June, 1886.

SIR,—With reference to my letter of the 19th instant, I am directed by the Secretary of State for Foreign Affairs to transmit to you to be laid before Earl Granville, a copy of a despatch from Her Majesty's Minister at Washington, relative to the headland question in connection with the North American Fisheries.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE  
For the Colonies.

[Enclosure No. 2.]

*From Foreign Office to Colonial Office.*

FOREIGN OFFICE, 30th June, 1886.

SIR,—With reference to your letter of the 26th instant, I am directed by the Earl of Rosebery, to state that His Lordship would be glad if Earl Granville could ascertain whether any instructions have been given by the Canadian Government to Customs Officers on the subject of headland lines which might have given rise to the alleged claims to exclude United States' fishing vessels from the waters covered by lines drawn from Cape Canso to St. Esprit, and from North Cape to East Cape of Prince Edward Island.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE  
For the Colonies.

[Enclosure No. 3.]

[TREATY No. 55.]

*Sir L. West to Earl Rosebery.*

WASHINGTON, 15th June, 1886.

MY LORD,—I have the honour to enclose to Your Lordship, herewith, copy of a note which I have received from the Secretary of State requesting the attention of Her Majesty's Government to certain warnings alleged to have been given to American fishing vessels by the Canadian authorities to keep outside imaginary lines drawn from headlands to headlands, which I characterize as wholly unwarranted pretensions of extra territorial authority and usurpations of jurisdiction.

I have, &c.,

(Sd.) L. S. S. WEST.

The Right Honourable

The SECRETARY OF STATE

For Foreign Affairs.

[Enclosure No. 4.]

*Mr. Bayard to Sir L. West.*

WASHINGTON, 14th June, 1886.

SIR,—The Consul General, of the United States, at Halifax, communicates to me the information derived by him from the Collector of Customs at that port, to the effect that American fishing vessels will not be permitted to land fish at that port of entry for transportation, in bond, across the Province.

I have also to inform you that the masters of the American fishing vessels of Gloucester, Mass., "Martha A. Bradley," "Rattler," "Eliza Boynton" and "Pioneer," have severally reported to the Consul General, at Halifax, that the Sub-Collector of Customs, at Canso, had warned them to keep outside an imaginary line drawn from a point three miles outside Canso Head to a point three miles outside St. Esprit, on the Cape Breton coast, a distance of forty miles. This line, for nearly its entire continuance, is distant twelve to twenty-five miles from the coast. The same masters also report that they were warned against going inside an imaginary line drawn from a point three miles outside North Cape, on Prince Edward Island, to a point three miles outside East Point, on the same island, a distance of over one hundred miles, and that this last named line was, for nearly that entire distance, about thirty miles from the shore.

The same authority informed the masters of the vessels referred to that they would not be permitted to enter Bay Chaleur.

Such warnings are, as you must be well aware, wholly unwarranted pretensions of extra-territorial authority and usurpation of jurisdiction by the provincial officers.

It becomes my duty in bringing this information to your notice, to request that if any such orders for interference with the unquestionable rights of the American fishermen to pursue their business without molestation, at any point not within three marine miles of the shores, and within the defined limits as to which renunciation of the liberty to fish was expressed in the Treaty of 1818, may have been issued the same may at once, be revoked as violation of the rights of citizens of the United States under Convention with Great Britain.

I will ask you to bring this subject to the immediate attention of Her Britannic Majesty's Government, to the end that proper remedial orders may be forthwith issued.

It seems most unfortunate and regrettable that questions which have been long since settled between the United States and Great Britain should now be sought to be revived.

I have, &amp;c.,

(Sd.)

T. F. BAYARD.

The Honourable

Sir LIONEL S. SACKVILLE WEST, K.C. M.G.

(Telegram.)

No. 108.

*Earl Granville to Lord Lansdowne.*

21st July, 1886.

MY LORD,—The Secretary of the United States has made a protest in very strong terms to British Minister against the proceedings in the case of the schooner "City Point," alleged to have been detained at Shelburne for having landed men and obtained water. Send explanation by telegraph as soon as possible.

(Sd.)

GRANVILLE.

(Telegram.)

No. 109.

*Lord Lansdowne to Earl Granville.*

24th July, 1886.

MY LORD,—Your Lordship's telegram of the 21st July. The United States' fishing schooner "City Point" committed a breach of the Canadian Customs' laws by landing portion of her crew and luggage, and by not reporting to the Customs. She was detained, and, on deposit of \$400, subsequently released.

(Sd.)

LANSDOWNE.

No. 110.

*Earl Granville to Lord Lansdowne.*

DOWNING STREET, 28th July, 1886.

MY LORD,—I have the honour to transmit to you, for communication to Your Lordship's Government, a copy of a letter, with its enclosures from the Foreign Office, respecting the case of the United States' schooner "City Point," on which my telegram of the 21st instant was founded.

I have, &amp;c.,

(Sd.) GRANVILLE.

Governor General,

The Most Honourable

The MARQUIS OF LANSDOWNE, G.C.M.G.

[Enclosure No. 1.]

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 17th July, 1886.

SIR,—I am directed by the Earl of Rosebery to transmit to you a copy of a despatch from Her Majesty's Minister at Washington, enclosing a copy of a note from Mr. Bayard, in which he protests against the detention of the American schooner "City Point," at Shelburne, Nova Scotia; and I am to request that Earl Granville will instruct the Marquis of Lansdowne, by telegraph, to send home a report on the subject, if possible, by cable.

I am, &amp;c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Sir L. West to the Earl of Rosebery.*

[Treaty No. 60.]

WASHINGTON, 3rd July, 1886.

MY LORD,—I have the honour to enclose to Your Lordship, herewith, copy of a further note which I have received from the Secretary of State, reporting the detention of the American schooner "City Point," of Portland (Maine), by the authorities of Nova Scotia.

I have, &amp;c.,

(Sd.) L. S. S. WEST.

The EARL OF ROSEBERY,  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Sir L. S. S. West.*

DEPARTMENT OF STATE,

WASHINGTON, 2nd July, 1886.

SIR—It is my unpleasant duty promptly to communicate to you the telegraphic report to me by the United States' Consul General at Halifax, that the Schooner "City Point," of Portland, Maine, arrived at the Port of Shelburne, Nova Scotia, landed two men, obtained water, and is detained by the authorities until further instructions are received from Ottawa. The case, as thus reported, is an infringement of the ordinary rights of international hospitality, and constitutes a violation of treaty stipulations and commercial privileges, evincing such unfriendliness to the citizens of the United States as is greatly to be deplored, and

which I hold it to be the responsible duty of the Government of Great Britain promptly to correct.

I have, &c.,

(Sd.) T. F. BAYARD.

The Hon. Sir L. S. S. WEST, K.C.M.G.,  
&c., &c., &c.

(Extract.)

No. 111.

*Lord Lansdowne to Earl Granville.*

[No. 238.]

CITADEL, QUEBEC, 29th July, 1886.

MY LORD,—I have the honour to forward herewith a copy of an approved report of a Committee of the Privy Council in reference to the Act entitled "An Act further to amend the Act respecting fishing by foreign vessels," which was passed at its last session by the Parliament of Canada, and which, as Your Lordship will remember, was reserved by me for the signification of Her Majesty's pleasure thereon.

Your Lordship will observe that for the reasons offered by the Minister of Justice my Government recommends that the attention of Her Majesty's Government may be drawn to the necessity for having the Royal Assent given at as early a day as possible to the Act above referred to.

Your Lordship has already been fully informed of the circumstances under which this Bill was originally introduced, and which are again recurred to in the report now submitted.

I enclose herewith a copy of clause 17 of the Act No. 85 mentioned by the Minister, and I apprehend that there can be no doubt that should the President at any time determine to issue a proclamation such as that contemplated in the clause Canadian vessels would become liable to seizure and forfeiture in consequence of acts for which, as the law now stands, it might not be possible to enforce the same penalties against vessels of the United States.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K. G.

[Enclosure No. 1.]

*COPY of an approved Report of a Committee of the Privy Council of Canada, dated 21st July, 1886.*

On a Report dated 17th July, 1886, from the Honourable Mr. Thompson, for the Minister of Marine and Fisheries, submitting the following observations in reference to the Act entitled "An Act further to amend the Act respecting fishing by foreign vessels," which was passed at its last session by the Parliament of Canada, and which has been reserved by Your Excellency for the assent of Her Majesty The Queen, a full and careful consideration of the subject with which the Act deals, made apparent the necessity for such a measure for the enforcement within Canadian waters of the statutes, which have been already passed in the Imperial and Canadian Parliaments, for carrying out the provisions of the Treaty of 1818 between Great Britain and the United States. The Statute 59 Geo. III, cap. 38, provides the penalty of forfeiture as to any foreign fishing vessels found fishing, or to have been fishing, or preparing to fish, within three marine miles of any of the coasts, bays, creeks, or harbours in any part of Her Majesty's Dominions in America, &c.

The Canadian Act of 1868, (cap. 61,) entitled "An Act respecting 'fishing by foreign vessels,'" and its amendment followed the Imperial Act and established the same penalty for the same offences. For all other offences against the treaty, and against the Imperial Act above referred to, the only penalty now provided by statute is that mentioned in section 4 of the Imperial Act, viz., the penalty of £200 to be recovered in the Superior Courts.

The Minister has had his attention called to the fact that the ordinary common law remedy for violation of a statute, viz., indictment as for a misdemeanour, is an unsuitable one

for such cases, because it would involve long personal imprisonment, even before trial (as the defendants would generally be foreigners without available security to offer for their appearance) and would after conviction be followed in nearly all cases by a further term of imprisonment, as the person on whom the penalties would fall would probably be unable to bear a considerable fine.

It is obvious that the mere right to bring a suit against the masters of offending fishing vessels, is a remedy of little or no avail. Before judgment for the £200 could be obtained, the person sued would be almost certain to be out of the jurisdiction of the Dominion courts, and the enforcement of the judgment would, for that reason become, in most cases, impossible, even if the defendants possessed the means from which the judgment could be realized.

The Minister submits that the penalty of forfeiture applied by the second section of the Imperial Statute, and by the Canadian Act, to the offence of fishing, &c., would be a suitable and most available penalty for the infringement of these statutes.

It cannot be claimed by the United States' Government to be an excessive or an unreasonable penalty, because, by Statute No. 85, of the United States' Congress, lately assented to by the President of the United States, the same penalty is established against foreign vessels whose masters, officers or agents do any act which may be contrary to any proclamation issued under that Statute.

The Committee concurring in the foregoing report, and considering the great value of the Canadian fishing grounds, and the necessity which exists for their protection from encroachments by foreign fishermen, in order that these natural resources may be made available to our own people, recommends that the attention of Her Majesty's Government be drawn to this subject, and that representations be made as to the necessity for having the Royal assent given at as early a day as possible to the Act of last session which is before referred to.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
Clerk, Privy Council, Canada.

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[Enclosure No 2.]

*Section 17 of Bill No. 85 of the United States' Congress.*

SECTION 17. That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbours, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is hereby authorized to issue his Proclamation excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such Proclamation for it to take effect, if the master, officer, or agent of any vessel of such foreign country excluded by said Proclamation from the exercise of any commercial privileges shall do any act prohibited by said Proclamation in the ports, harbours, or waters of the United States for or on account of such vessel, such vessel, and its rigging, tackle, furniture and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this Act, or aiding and abetting any other person in such opposition, shall forfeit eight hundred dollars and shall be guilty of a misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years.

No. 112.

*Earl Granville to the Governor General.*

[No. 175.]

DOWNING STREET, 29th July, 1886.

MY LORD,—I have the honour to transmit to you a copy of a letter from the Foreign Office, enclosing two despatches from Her Majesty's *chargé d'affaires* at Washington, containing protests of Mr. Bayard against the action of the authorities of the Dominion in regard to United States' fishing vessels.

I have to request that your Government will, with as little delay as possible, furnish Her Majesty's Government with a report on the cases referred to.

I have, &amp;c.,

(Sd.) GRANVILLE.

Governor General,

The Most Honourable

The MARQUIS OF LANSDOWNE, G.C.M.G.

&amp;c., &amp;c., &amp;c.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 28th July, 1886.

SIR,—I am directed by the Earl of Rosebery to transmit to you two despatches from Her Majesty's *Chargé d'Affaires* at Washington containing protests of Mr. Bayard against the action of the Canadian authorities in regard to United States' fishing vessels, and I am to suggest that if Earl Granville sees no objection, a report on the cases mentioned should be obtained from the Dominion Government with as little delay as possible.

I am, &amp;c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Mr. Hardinge to the Earl of Rosebery.*

[Treaty No. 67.]

WASHINGTON, 12th July, 1886.

MY LORD,—I have the honour to transmit herewith to Your Lordship copy of a note received to-day from the Secretary of State protesting against the action of the Canadian Customs authorities at Pictou, N.S., in denying to the steamship "Novelty," of the United States, the right to take in steam coal, purchase ice or tranship fish in bond to the United States.

I am, &amp;c.,

(Sd.) CHARLES HARDINGE.

The EARL OF ROSEBERY.  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Sir L. S. West.*

DEPARTMENT OF STATE,

WASHINGTON, 10th July, 1886.

SIR,—I have the honour to inform you that I am in receipt of a report from the Consul General of the United States, at Halifax, accompanied by sworn testimony stating that the

"Novelty," a duly registered merchant steam vessel of the United States, has been denied the right to take in steam coal, or purchase ice, or tranship fish in bond to the United States, at Pictou, N.S.

It appears that, having reached that port on the 1st inst., and finding the Customs Office closed on account of a holiday, the Master of the "Novelty" telegraphed to the Minister of Marine and Fisheries, at Ottawa, asking if he would be permitted to do any of the three things mentioned above. That he received in reply a telegram reciting with certain inaccurate and extended application, the language of Art. I, of the Treaty of 1818, the limitations upon the significance of which are in pending discussion between the Government of the United States and that of Her Britannic Majesty. That on entering and clearing the "Novelty" on the following day at the Custom House, the Collector stated that his instructions were contained in the telegram the Master had received; and that, the privilege of coaling being denied, the "Novelty" was compelled to leave Pictou without being allowed to obtain fuel necessary for her lawful voyage on a dangerous coast.

Against this treatment I make instant and formal protest as an unwarranted interpretation and application of the Treaty by the Officers of the Dominion of Canada and the Province of Nova Scotia, as an infraction of the laws of commercial and maritime intercourse existing between the two countries, and as a violation of hospitality, and for any loss or injury resulting therefrom the Government of Her Britannic Majesty will be held liable.

I have, &c.,

(Sd.)

T. F. BAYARD.

The Honourable

Sir L. S. WEST, K.C.M.G.

&c., &c., &c.

[Enclosure No. 4.]

*Mr. Hardinge to Earl of Rosebery.*

[No. 68.]

WASHINGTON, 12th July, 1886.

MY LORD,—With reference to my preceding despatch No. 67 Treaty of to-day, I have the honour to enclose to Your Lordship herewith copy of a further note addressed by the Secretary of State to Sir L. West, protesting against the interference of the Dominion cruiser "Middleton" in preventing American boats from visiting St. Andrews, N. B., for the purpose of there purchasing herring for canning.

In reply I have merely acknowledged the receipt of his note and stated that I would acquaint Your Lordship with his views on the subject.

I have also the honour to transmit to Your Lordship an extract from the "National Republican" of to-day's date, giving the full text of Mr. Bayard's reply to representative Boutelle of Maine, together with a statement made by the captain of one of the American boats in question whose masters complain of the violation of their commercial rights.

I have, &c.

(Sd.)

CHARLES HARDINGE.

The EARL OF ROSEBERY,

&c., &c., &c.

[Enclosure No. 5.]

*Mr. Bayard to Sir L. S. West*

DEPARTMENT OF STATE,

WASHINGTON, 10th July, 1886.

SIR,—On the 2nd of June last, I had the honour to inform you that despatches from Eastport, in Maine, had been received, reporting threats by the Customs Officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning the same as sardines, which would be a manifest infraction of the right of purchase and sale of herring caught and sold by Canadians in their own waters in the pursuance of legitimate trade.

To this note I have not had the honour of a reply.

To-day Mr. C. A. Boutwell, M. P. from Maine, informs me that American boats visiting St. Andrews, N. B., for the purpose of there purchasing herring from the Canadian weirs for canning had been driven away by the Dominion cruiser "Middleton."

Such inhibition of usual and legitimate commercial contracts and intercourse is assuredly without warrant of law, and I draw your attention to it in order that the commercial rights of citizens of the United States may not be thus invaded and subjected to unfriendly discrimination.

I am, &c.,

(Sd.) T. F. BAYARD.

The Hon.

SIR L. S. WEST, K.C.M.G.,  
&c., &c., &c.

[Enclosure No. 6.]

EXTRACT from the "*National Republican*" of 12th July, 1886.

THE EXPELLED SARDINE BOATS.—AN ALLEGED VIOLATION OF COMMERCIAL RIGHTS WILL BE ASSERTED.

Representative Boutelle, of Maine, has received the following reply to his request that the State Department give immediate attention to the statement telegraphed him from Eastport, that American boats were driven away from St. Andrew's, N. B., on Friday, by a Dominion cruiser :—

DEPARTMENT OF STATE, 10th July, 1886.

HON. C. A. BOUTELLE,  
*House of Representatives.*

DEAR SIR,—I have just received your telegram of this date stating that you had a despatch from Eastport, Me., that American boats after herring for sardines at St. Andrew's, N. B., were driven away by the Dominion cruiser "Middleton," with the announcement that no American boats will be allowed to take herring for any purpose. And to this you invoke the immediate attention of this Department.

On the 2nd of June last, you called at this Department, in company with Senator Hale, of Maine, and then drew my attention to a similar threat of interference with the purchase of small herring for canning as sardines from the Canadian weirs. On the same day I made representation of the alleged threats to the British Minister at this capital, and drew his attention to the alleged violation of lawful commercial intercourse between British subjects in Canada and the citizens of the United States.

It will assist materially in all such cases of alleged violation of commercial rights, if accurate and full statement of all the facts in each case are procured and forwarded to this Department, accompanied by affidavits.

A great deal of loose rumour and sensational statement would be thus disposed of, and a tangible basis be laid for claim for compensation by the injured parties.

I have, &c ,

(Sd.) T. F. BAYARD.

Mr. Boutelle has telegraphed to Eastport requesting that full and accurate sworn statements of the interference complained of, be prepared and forwarded at once to the Department of State.

STATEMENT TELEGRAPHED TO WASHINGTON.

EASTPORT, Me, 11th July, 1886.

Captain Balkam, in charge of one of the American boats which were at St. Andrew's, N.B., Friday night, and which were driven away by the Dominion cruiser "General Middleton," in command of Lieutenant Kent, makes the following statement :—"I was lying in St. Andrew's harbour, waiting for the fishermen to seine their weirs, when 'General Middleton' come into port. Lieutenant Kent, of the 'Middleton', came on board my boat, and inquired if she was an American boat and if I was an American citizen. I told him I did not know whether my boat was American or not, but as for myself I was an American citizen. 'It makes no difference,' he replied, 'whether your boat is American or English, you have no

right to purchase fish in this port, and if you do not leave, or if you attempt to buy fish, your boat will be seized.' He also notified the other boatmen. Not wishing to have any trouble with the Dominion Government, we all set sail, and blowing our fog horns in derision of the 'General Middleton,' steered for the American shore. Collector Null has taken my statement and telegraphed to Washington."

(Telegram.)

No. 113.

*Earl Granville to Lord Lansdowne.*

2nd August, 1886.

Send full particulars as to United States' fishing vessels seized or warned off. Grounds for seizure or warning, and exact locality, including distance from shore, of such vessels.

(Sd.) SECRETARY OF STATE.

No. 114.

*Minister at Washington to Governor General.*

[No. 88.]

WASHINGTON, 3rd August, 1886.

MY LORD,—I have the honour to transmit herewith to Your Excellency copy of a note addressed by the Secretary of State to Her Majesty's Minister, and I shall be very much obliged if Your Excellency will cause instructions to be issued to furnish me with the papers required.

I have, &c.,

(Sd.) CHARLES HARDINGE.

His Excellency  
The GOVERNOR GENERAL.

[Enclosure No. 1.]

*Mr. Bayard to Sir Lionel West.*

WASHINGTON, 2nd August, 1886.

MY DEAR SIR LIONEL,—In response to a request you gave me some time ago, references to certain British and Canadian Statutes relating to the fisheries, and also sent me—one or two circulars emanating from the Dominion authorities on the same subject.

Many changes and innovations are reported to have been made in the public and other orders issued in Canada, and I will ask of you the favour to procure and send me, in duplicate, if possible, copies of all the orders, circulars and regulations issued officially, and now in force in Canada, under which the entry of American fishing vessels in Canadian waters, or their purchase of bait or other supplies, shipment of crews, &c., are regulated. For these important documents I shall be much obliged.

I am, &c.,

(Sd.) T. F. BAYARD.

(Telegram.)

No. 115.

*Lord Lansdowne to Earl Granville.*

4th August, 1886.

MY LORD,—Your telegram of the 2nd. Full particulars by to-morrow's mail.

(Sd.) LANSDOWNE.

(Extract.)

No. 116.

*Governor General to Secretary of State.*

QUEBEC, 4th August, 1886.

MY LORD,—I had the honour of receiving Your Lordship's telegram of the 2nd instant, requesting me to supply you with full particulars of all the United States' fishing vessels which have been seized or warned off by the Fisheries Police of the Dominion, of the grounds for such seizures and warnings, and of the exact locality in which they had taken place, with especial reference to the distance from the shore of such vessels at the time when they were seized or warned.

In regard to seizures, I have ascertained that the only cases have been the following:—

1st. The "David J. Adams," seized at Digby, N.S., on the 7th May last.

2nd. The "Ella M. Doughty," of Portland, Me., seized at Englishtown, N.S., on the 17th of May last.

3rd. The "City Point," seized at Shelburne, N.S., on the 2nd of July last.

4th. The "George W. Cushing" and the "C. B. Harrington," both of which vessels were seized at Shelburne on the 3rd of July.

Copies of the seizure reports, which contain all the information of which my Government is possessed relative to these seizures, are enclosed herewith.

The circumstances under which the "David J. Adams" was seized have been already explained at some length in my previous despatches. This vessel is still detained, and waits trial before the Vice-Admiralty Court.

Particulars with regard to the "Ella M. Doughty" were given in my despatch No. 167, of the 26th May. This vessel has been released, her owners having deposited the sum of \$3,000.

The "City Point," "George W. Cushing" and "C. B. Harrington" were released upon deposit of \$400 each, that being the amount of the penalty to which they were liable under Section 29 of the Customs' Act of 1833, which they had contravened.

I also enclose for Your Lordship's information copies of the boarding books of the Government fisheries protection vessels: "Lansdowne," "Critic," "F. E. Conrad," "Terror," "General Middleton" and "L. Houlett."

In the large majority of cases where vessels have been warned or ordered to leave Canadian waters the vessel was boarded in harbour. It has been thought sufficient to give the name of the harbour by way of a description of the locality.

In the few cases in which vessels appear to have been boarded outside a port or harbour in which cases no seizure was made or attempted and a simple warning given in accordance with the terms of the circular of which Your Lordship has already seen a copy, it has, I understand, not been thought necessary to instruct the officers in command of police vessels to mark the locality with greater exactness than by giving the name of the port or harbour off or near which the vessel was boarded.

In the case of vessels actually seized the reports contain much further information as to locality.

I may mention in explanation of the fact that the returns of some of the police vessels have not been brought down to a more recent date, that these vessels are ordered not to come into port more than once a week and then only if they can be spared from their cruising grounds.

I have given directions that Your Lordship is to be from time to time supplied with further information in regard to any seizures or warnings which may hereafter take place.

I have, &c.,

The Right Honourable  
THE SECRETARY OF STATE,  
for the Colonies.

(Sd.)

LANSDOWNE.

(Extract.)

No. 117.

*Lord Lansdowne to Earl Granville.*

CITADEL, QUEBEC, 4th August, 1886.

MY LORD,—I have the honour to acknowledge receipt of Your Lordship's despatch of the 15th July, enclosing Mr. Pauncefote's letter of 30th June, with which were transmitted the enclosures noted in the margin, relative to the points raised in Mr. Bayard's note to Sir Lionel West, dated 14th \*July, 1886.

\*So dated in enclosure, but it is presumed the date should be 14th June.

I desire at once to point out to Your Lordship the inaccuracy of the language in which Mr. Bayard has described "such warnings," including, it is presumed, the alleged warning which had reference to the Bay des Chaleurs, as "wholly unwarranted pretensions of extra territorial authority and usurpations of jurisdiction by the Provincial officials," constituting "an interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within three marine miles of the shores, and within the defined limits as to which renunciation of the liberty to fish was expressed in the Treaty of 1818."

My Government will be prepared at the proper moment, and whenever it becomes necessary to raise the questions formally, to uphold by sufficient arguments the contention which has, from the time that these matters first engaged the attention of the Governments interested, been maintained by that of the Dominion in regard to the interpretations which should be placed upon that portion of Art. I. of the Convention of 1818, which describes the limits within which the liberty of fishing was renounced by the United States.

It is not necessary upon the present occasion that I should recur to the past history of the "headlands question," or that I should do more than state that Mr. Bayard's suggestion that the Bay des Chaleurs does not form a part of the waters from which United States fishermen are excluded, is one in which my Government cannot acquiesce. Throughout the negotiations which have at different times taken place in regard to these matters no such admission has ever been made on the part of the Dominion, or, as far as I am aware, by the Imperial Government. It is therefore wholly incorrect of Mr. Bayard to speak of the question as one which should be included amongst those "which have been long since settled between the United States and Great Britain."

I shall ascertain whether any statement according with that referred to in the first paragraph of Mr. Bayard's note was made by the Collector at Halifax in regard to the landing of fish at that point for transportation in bond across the Province. It will, however, be evident to Your Lordship that the landing of fish for the above purpose is not one of the objects for which entrance to Canadian harbours is permitted within the terms of the Convention of 1818.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
EARL GRANVILLE, K. G.

[No. 179]

No. 118.

*The Right Honourable Edward Stanhope to Lord Lansdowne.*

DOWNING STREET, 4th August, 1886.

MY LORD,—I have the honour to transmit to you, for the information of Your Lordship's Government, a copy of a letter from the Foreign Office, enclosing an

extract from the "New York Herald" relative to the North American fisheries question.

I have, &c.,

(Sd.) EDWARD STANHOPE.

Governor General

The Most Honourable the MARQUIS OF LANSDOWNE, G.C.M.G.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 26th July, 1886.

SIR,—I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, an extract from the "New York Herald," relative to the North American fisheries question.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Extract from the "New York Herald" of 9th July, 1886.*

DEPARTMENT OF STATE,  
WASHINGTON, 30th June, 1886.

Captain JESSE LEWIS,  
Owner of the schooner "David J. Adams,"  
Gloucester, Mass.

SIR,—I have your letter, dated the 26th inst., stating the severe loss to you occasioned by the summary seizure by the Canadian authorities, in Annapolis Basin, Nova Scotia, of your fishing schooner the "David J. Adams," which, as you say, is all the property you possess and constituted your only support.

It is proper that I should inform you that demand was made upon the Government of Great Britain for the release of the vessel, coupled with a notification that that Government would be held answerable for all loss and damage caused by her seizure and detention. Your case commands my sincere sympathy, and ever since it was brought to my knowledge has had the constant consideration of the Department, and of the consular officers of the United States in the Dominion of Canada.

Mr. William L. Putnam, of Portland, Me., in conjunction with Mr. George W. Biddle, of Philadelphia, has been engaged by this Government as its legal counsel in respect of its rights and duties which may be brought in question by reason of the seizure of your vessel. If you will communicate with Mr. Putnam he will no doubt give you all information in his power in relation to the laws under which your property was so seized, and suggest what steps should be taken to protect your private interest in the premises.

Moreover, I suggest that you should carefully secure evidence of all the facts connected with the presence of your vessel in Annapolis Basin, and of the absence of any unlawful act or intention on the part of her master, crew, or owner, as well as proof of the actual loss and injury sustained by you by reason of this harsh and, as I believe, wholly unwarranted action by the Canadian officials—such evidence to be obtained and preserved as the basis of claims for your remuneration.

More than one year ago I sought to protect our citizens engaged in fishing from the results which might attend any possible misunderstanding between the Governments of Great Britain and the United States as to the measure of their mutual rights and privileges in the territorial waters of British North America, after the termination of the fishery articles of the Treaty of Washington in June last. It seemed to me then, and seems to me now, very hard that differences of opinion between the two Governments should cause loss to the honest citizens whose line of obedience might be thus rendered vague and uncertain and their property be brought into jeopardy. Influenced by this feeling, I procured a temporary

arrangement which secured our fishermen full enjoyment of all the Canadian fisheries, free from molestation during a period which would permit discussion of a just international settlement of the whole fishery question. But other counsels prevailed, and my efforts further to protect the fishermen from such trouble as you now suffer were unavailing.

To secure for them full protection in the enjoyment of all their just rights and privileges is still my earnest intent and object, and for all losses to which they may be unlawfully subjected at the hands of the authorities of foreign Governments I shall seek and expect to obtain full redress. I regret exceedingly the disturbance in the long customary pursuits and the serious loss and inconvenience attendant upon a disputed construction of laws and treaties by two separate Governments, and I trust that I shall soon be enabled to secure such a clear and comprehensive declaration of agreement between those charged with the administration of the two Governments as will define the line of their rights and secure from molestation those American fishermen who, obeying the injunctions of their Government respecting subordination to the laws of foreign Governments, keep within the laws of their own country.

Reparation for all losses unlawfully caused by foreign authority will be made the subject of international presentation and demand.

I am, &c.,

(Sd.) T. F. BAYARD.

No. 119.

*Lord Lansdowne to Earl Granville.*

CITADEL, QUEBEC, 5th August, 1886.

MY LORD,—With reference to my despatch of yesterday's date I have now the honour to forward for Your Lordship's information copies of the papers relative to the seizure of the United States' fishing schooner "Ella M. Doughty."

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable

EARL GRANVILLE, K.G.,

&c., &c., &c.

[Enclosure No. 1.]

HALIFAX, 5th August, 1886.

*Regina vs. "Ella M. Doughty."*

SIR,—I received your telegram to-day as follows:—"please send me to-day copy of Collector of Customs' affidavit *in re*, Doughty seizure."

The only affidavit made by the Collector of Customs is the affidavit to lead warrant, which is very brief and contains no particulars of fact, the Admiralty rules only requiring that it should state the nature of the claim. I, therefore, forward in addition to this the other documents enumerated below as they may contain some information required by you. Enclosed herewith are:—1st. Affidavit of Daniel G. McAskill and Donald J. Morrison, 18th May, 1886. 2nd. Affidavit of Angus Morrison, 31st. May 1886. 3rd. Affidavit of Donald McRitchie, 31st May, 1886. 4th. Statement of Torquell McLean. 5th. Statement of Donald J. Morrison, 31st May, 1886. 6th Statement of Daniel G. McAskill, 31st May, 1886. 7th. Copy of Affidavit of Lauchlin G. Campbell to lead warrant, *Regina vs. "Ella M. Doughty"*. 8th. Copy of Plaintiff's petition, *Regina, vs. "Ella M. Doherty."*

Your obedient servant,

(Sd.)

WALLACE GRAHAM.

GEORGE W. BURBIDGE, Esq.,

Deputy Minister of Justice, Ottawa.

## [Enclosure No. 2.]

We, Daniel G. McAskill and Donald J. Morrison, of Englishtown, do solemnly swear that we sold on the 12th day of March, 1886, 1,400 herring at 25 cents per hundred, and on the 13th 3 barrels more or less at \$1.00 per barrel to schooner "Ella M. Doughty."

(Sd.) DANIEL G. McASKILL,  
D. J. MORRISON.

Sworn to, before me this 18th }  
day of May, 1886. }

(Sd.) D. McAULAY,  
*Deputy Collector.*

## [Enclosure No 3.]

I, Angus Morrison, of Englishtown, make the following statement and say:—

That I was aboard schooner "Ella M. Doughty" with Torquell McLean selling 500 herring for 30 cents per 100. I did not sell any myself. The Captain and crew were warning us not to tell. The day before this day the crew were ashore wanting me to take herring aboard in night time. They were talking about the trading license but they did not know whether it was good or not.

I, Angus Morrison, do solemnly swear that the above statements are true and correct in all their particulars.

(Sd.) ANGUS MORRISON.

I, the undersigned certify that the above Angus Morrison made the statements and swore to them before me this 31st day of May, 1886.

(Sd.) D. McAULAY,  
*Deputy Collector.*

## [Enclosure No. 4.]

I, Donald McRitchie, went aboard schooner "Ella M. Doughty" on the 12th day of May, 1886, and took aboard with me 900 herring which the Captain bought from me and gave me \$2.25 for them.

Captain of schooner "Ella M. Doughty" wished me to keep it quite secret. While I was about leaving, Donald McInnes, Daniel G. McAskill and Donald J. Morrison came aboard. I solemnly swear that the above statements are correct, so help me God.

(Sd.) DONALD McRITCHIE,

I, the undersigned, certify that the above statements were made before me and sworn to on the 31st day of May, 1886.

(Sd.) D. McAULAY,  
*Deputy Collector.*

## [Enclosure No. 5.]

I, Torquell McLean, and Angus Morrison went aboard schooner "Ella M. Doughty" on the 13th May, and sold herring and there were aboard Donald McInnes, Donald J. Morrison and Daniel G. McAskill.

This statement made in presence of Daniel Morrison and Daniel McLean.

Torquell McLean refuses to sign this or swear to it: says it is true.

(Sd.) D. McAULAY,  
*Deputy Collector.*

## [Enclosure No. 6.]

I, Donald J. Morrison, was in the boat on the 12th day of May, 1886, with Dan. G. McAskill and Donald McInnes when the dory of the schooner "Ella M. Doughty" met us coming home with nets and herrings; the crew told us to clean nets and take herrings aboard and captain would buy them when we were in vessel. We saw aboard Torquell McLean and

Donald McRitchie. They seemed to be very much afraid that they would be seized. Second day we went aboard Torquell McLean and Angus Morrison (little) had left schooner "Ella M. Doughty" and they commenced cleaning net. They said Torquell McLean and Angus Morrison went aboard with herring when cleaned out of nets, and we saw the herring taken out of boat into vessel "Ella M. Doughty"; while aboard they saw some men ashore and us if they were Customs officers.

We got 25 cents per 100 for 1,400 first day and \$3 for the lot which we had the second day, 13th inst., which was about three barrels, more or less.

(Sd.) DONALD <sup>his</sup> + J. MORRISON.  
mark.

ENGLISHTOWN, 31st May, 1886.

I, the undersigned, certify that the above statement was made before me this 31st day of May, 1886.

(Sd.) D. McAULAY,  
Deputy Collector.

[Enclosure No. 7.]

When we, D. G. McAskill and D. J. Morrison and Donald McInnes, were coming home on 12th May, inst., 1886, with nets with herring in, and not taken out of net, a dory met us that came from the schooner "Ella M. Doughty" and asked us if we had herring to sell. D. McInnes told them we had about 1,000 herrings; they told us to get herring out of nets and go aboard and they would buy them. They seemed to be afraid of being seized as the crew of vessel told us not to report them ashore. When we went aboard Donald McRitchie, Eel Cove, was aboard. Torquell McLean was aboard after D. McRitchie left schooner "Ella M. Doughty." We were aboard when Torquell McLean put bait aboard said schooner "Ella M. Doughty." Second day, we went to said schooner and had about three barrels of herring, more or less, and captain said he had no change but would give \$3.00 for the lot. Torquell McLean and Angus Morrison were then on board but let the vessel go and commenced taking herring out of net and they went aboard again and sold the herring to captain, but I did not see them receive any payment. When we counted herring first day we had 1,400 and we got 25 cents per 100.

(Sd.) DAN. G. McASKILL.

ENGLISHTOWN, 31st May, 1886.

I, the undersigned, do certify that the above statement was made in my presence.

(Sd.) D. McAULAY,  
Deputy Collector.

(No. 473)

[Enclosure No. 8.]

*In the Vice-Admiralty Court of Halifax.*

Her Majesty the Queen, Plaintiff, against the ship or vessel "Ella M. Doughty" and her cargo.

Action for forfeiture of the said vessel and her cargo for violation of a certain convention between His Late Majesty King George the Third, King of the United Kingdom of Great Britain and Ireland, of the one part, and the United States of America, of the other part, made on the twentieth day of October, 1818, and for violation of the Act of the Parliament of the United Kingdom of Great Britain and Ireland made and passed in the fifty-ninth year of the reign of His Late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter thirty-eight of the Acts of the last named Parliament made and past in the said year.

Also for forfeiture of the said vessel and her cargo for violation of chapter sixty-one of the Acts of the Parliament of the Dominion of Canada made and passed in the year 1868, and of chapter fifteen of the Acts of the said Parliament passed and made in the year 1870, and of chapter twenty-three of the Acts of the said Parliament made and passed in the year 1871.

I, Lauchlin G. Campbell, of Baddeck, in the County of Victoria and Province of Nova Scotia, Collector of Customs, make oath and say as follows:—

1. That the Honourable John S. D. Thompson, Her Majesty's Attorney General for the Dominion of Canada, claims, on behalf of Her Majesty the Queen, to have the said ship or

vessel "Ella M. Doughty" and her cargo condemned to Her Majesty the Queen for violation of a certain convention between His Late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, of the one part, and the United States of America, of the other part, made and signed at London in Great Britain on the twentieth day of October in the year of our Lord 1818, and also for violation of the Act of the Parliament of the United Kingdom of Great Britain and Ireland made and passed in the fifty-ninth year of the reign of His Late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter thirty-eight of the Acts of the said Parliament made and passed in the said year, and being intituled "An Act to enable His Majesty to make regulations with respect to the taking and curing of fish in certain parts of the coasts of Newfoundland and Labrador and His said Majesty's other possessions in North America, according to a convention made between His Majesty and the United States of America."

The said Honourable John S. D. Thompson, Her Majesty's Attorney General for the Dominion of Canada, also claims, on behalf of Her Majesty the Queen, to have the said ship "Ella M. Doughty" and her cargo condemned as forfeited to Her Majesty the Queen for violation of chapter sixty-one of the Acts of the Parliament of the Dominion of Canada made and passed in the year 1868, and intituled "An Act respecting fishing by foreign vessels," and for violation of chapter fifteen of the Acts of the Parliament of the Dominion of Canada made and passed in the year 1870, and intituled "An Act to amend the Act respecting fishing by foreign vessels," and for violation of chapter twenty-three of the Acts of the Parliament of the Dominion of Canada made and passed in the year 1871, and intituled "An Act further to amend the Act respecting fishing by foreign vessels."

The said ship "Ella M. Doughty" is a foreign vessel and not navigated according to the laws of the United Kingdom of Great Britain and Ireland or of the Dominion of Canada, and is registered in the United States of America and is owned by foreigners residing in the said United States of America.

I further make oath and say that the aid of this Court is required to enforce the said claim.

I am the Collector of Customs at Baddeck aforesaid.

(Sd.) LAUHLIN GEO. CAMPBELL,  
*Collector of Customs.*

On the 25th day of May, A.D. 1886, the said Lauchlin George Campbell was duly sworn to the truth of this affidavit at Baddeck, in the County of Victoria and Province of Nova Scotia, before me.

(Sd.) ALEX. TAYLOR,  
*A Commissioner duly appointed to administer oaths  
in the Vice-Admiralty Court of Halifax.*

(No 473)

[Enclosure No 9.]

*In the Vice Admiralty Court at Halifax.*

Her Majesty the Queen, Plaintiff, against the Ship or Vessel "Ella M. Doughty" and her Cargo.

Action for forfeiture of the said vessel and her cargo for violation of a certain convention between His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland of the one part, and the United States of America of the other part, made on the twentieth day of October, 1818. And for the violation of the Act of the Parliament of the United Kingdom of Great Britain and Ireland, made and passed in the fifty-ninth year of the reign of His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, being Chapter thirty-eight of the Acts of the said last named Parliament made and passed in the said year. Also for forfeiture of the said vessel and her cargo, for violation of Chapter sixty-one of the Acts of the Parliament of the Dominion of Canada, made and passed in the year 1868, and of Chapter fifteen of the Acts of the said Parliament passed and made in the year 1870, and of Chapter twenty-three of the Acts of the said Parliament made and passed in the year 1871.

*Writ issued on the 20th day of May, A.D. 1886.*

1. A certain Convention between His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, and the United States of America, was made and signed at London, on the 20th day of October 1818, and by the first Article thereof, after reci-

ting that differences had arisen respecting the liberty claimed by the said United States for the inhabitants thereof to take, dry and cure fish on certain coasts, bays, harbours and creeks of His Britannic Majesty's Dominions in America, it was agreed between the High Contracting Parties that the inhabitants of the said United States should have forever in common with the subjects of His Britannic Majesty the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, creeks, and harbours from Mount Joly on the southern coast of Labrador to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen should also have liberty forever to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland thereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof should be settled it should not be lawful for the said fishermen to dry and cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors or possessors of the ground. And the said United States thereby renounced forever any liberty theretofore enjoyed or claimed by the inhabitants thereof to take dry or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbours of His Majesty's Dominion in America not included within the above mentioned limits; provided, however, that the American fishermen should be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water and for no other purpose whatever. But they should be under such restrictions as might be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them.

2. That a certain Act of the Parliament of the United Kingdom of Great Britain and Ireland was made and passed in the fifty-ninth year of the reign of His late Majesty King George the Third, being Chapter thirty-eight of the Acts of the said Parliament made and passed in the fifty-ninth year of the reign of His said late Majesty King George the Third, and being intituled "An Act to enable His Majesty to make regulations with respect to the taking and curing of fish on certain parts of the Coasts of Newfoundland, Labrador, and His Majesty's other possessions in North America, according to a Convention made between His Majesty and the United States of America.

3. That on the 29th day of March, A.D. 1867, a certain other Act of the Parliament of the United Kingdom of Great Britain and Ireland was made and passed, being Chapter three of the Acts of the said Parliament passed in the thirtieth and thirty-first years of the reign of Her present Majesty Victoria, Queen of the United Kingdom of Great Britain and Ireland, and being intituled "An Act for the union of Canada, Nova Scotia and New Brunswick and the Government thereof, and for purposes connected therewith," which said Act is cited and known as "The British North America Act, 1867."

4. That a certain Act of the Parliament of Canada was made and passed in the thirty-first year of the reign of Her said Majesty, Queen Victoria, being Chapter sixty-one of the Acts of the said Parliament made and passed in the year 1868, and being intituled "An Act respecting fishing by foreign vessels."

And a certain other Act of the Parliament of Canada was made and passed in the thirty-third year of the reign of Her said Majesty Queen Victoria, being Chapter 15 of the Acts of the said Parliament made and passed in the year 1870, and being intituled "An Act to amend the Act respecting fishing by foreign vessels." And in the thirty-fourth year of the reign of Her said Majesty Queen Victoria a certain other Act of the said Parliament of Canada was made and passed, being Chapter twenty-three of the Acts of the said Parliament made and passed in the year 1871, and being intituled "An Act further to amend the Act respecting fishing by foreign vessels."

5. That the said Convention and the said several Acts hereinbefore mentioned were and are still in full force and effect.

6. The Harbor of St. Ann's, situate in the County of Victoria, in the Province of Nova Scotia, together with its outlet to the Bay of St. Ann's, and also, the said Bay of St. Ann's, all hereinbefore designated as the Bay and Harbor of St. Ann's, are a portion of the Dominions in America formerly of His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, and now of Her Majesty, Queen Victoria, Queen of the United Kingdom of Great Britain and Ireland, not included or lying on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, or on the coasts, bays, harbours and creeks from Mount Joly on the southern coast of Labrador to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast.

7. That the said ship, "Ella M. Doughty," whereof one Warren A. Doughty, who was not a natural born subject of Her Majesty, was or is master, is a foreign ship or vessel not navigated according to the laws of the United Kingdom of Great Britain and Ireland, or according to the laws of Canada, but was and is a ship of the United States of America owned by foreigners, that is to say, by persons residing in and being citizens of the United States of America, where the said ship or vessel was built and enrolled; and the said ship or vessel "Ella M. Doughty" was at the time hereinafter mentioned licensed and permitted to carry on the fisheries under and in pursuance of the Acts of the United States of America, and was engaged in the prosecution of the fisheries and on a fishing voyage, and was and is without a license to fish or any license whatsoever in that behalf from the Government of Canada or of Nova Scotia under the statutes of Canada or of Nova Scotia in that behalf.

8. Between the tenth and seventeenth days of May, 1886, the said Warren A. Doughty, the master of the said ship or vessel, "Ella M. Doughty," and the officers and crew of the said ship or vessel, "Ella M. Doughty," did in and with the said ship or vessel, "Ella M. Doughty," enter into the Bay and Harbour of St. Ann's aforesaid, within three marine miles of the shores of the said Bay and Harbour of St. Ann's, and within three miles of the coasts, bays, creeks and harbours of those portions of the Dominions in America of His said late Majesty King George the Third, being now the Dominions in America of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention, and set out and recited in the first paragraph hereof, for the purpose of procuring bait, that is to say, herrings, wherewith to fish, and ice for the preservation on board said vessel of bait to be used in fishing, and of fresh fish to be fished for, taken and caught by and upon the said vessel and by the master, officers and crew thereof, and did procure such bait wherewith to fish, and such ice for the purposes aforesaid, and did so enter for other purposes than the purpose of shelter, or repairing damages, or of purchasing wood, or of obtaining water, contrary to the provisions of the said Convention and of the said several Acts; and the said vessel, "Ella M. Doughty," and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbor of St. Ann's, by Donald McAulay and Lauchlin G. Campbell, officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

9. The said Warren A. Doughty, the master of the said ship or vessel, "Ella M. Doughty," and the officers and crew of the said ship or vessel, "Ella M. Doughty," did between the tenth and seventeenth days of May, 1886, and subsequently, in the said ship or vessel, "Ella M. Doughty," in the Bay and Harbour of St. Ann's aforesaid, and while he and they and the said ship or vessel, "Ella M. Doughty," were within three marine miles of the coasts or shores of the said Bay and Harbor of St. Ann's, and within three marine miles of the coasts, shores, bays, creeks and harbors of those portions of the Dominions in America of His said late Majesty King George the Third, being now the Dominions in America of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention, and set out and recited in the said first paragraph hereof, fish for fish, and take fish, and did dry and cure fish and were preparing to fish, within the meaning of the said Convention and of the said several Acts hereinbefore mentioned, contrary to the provisions of the said Convention and of the said several Acts; and the said vessel, "Ella M. Doughty," and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbour of St. Ann's, by Donald McAulay and Lauchlin G. Campbell, officers of the Customs of Canada, as being liable to forfeiture for violation of the said Convention and of the said several Acts.

10. The said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty," and the officers and crew of the said ship or vessel "Ella M. Doughty" were between the said 10th and 17th days of May, 1886, and subsequently in the said ship or vessel "Ella M. Doughty," in the Bay and Harbour of St. Anns, aforesaid, and while he and they and the said ship or vessel "Ella M. Doughty" were within three marine miles of the coasts or shores of the said Bay or Harbour of St. Ann's, and within three marine miles of the coasts, shores, bays, creeks and harbours of those portions of the Dominions in America of His late Majesty King George the Third, being now the Dominions in America of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention and set out and recited in the first paragraph hereof, preparing to fish within the meaning of the Convention, and of the several Acts hereinbefore mentioned, contrary to the provisions of the said Convention, and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Bay or Harbour of St. Ann's, by Donald McAulay and Lauchlin G. Campbell, officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention, and of the said several Acts.

11. Between the said 10th and 17th days of May, 1886, and subsequently in the said Bay and Harbour of St. Ann's, within three marine miles of the shores thereof and within three

marine miles of the coasts, bays, creeks and harbours of those portions or parts of the Dominions in America of His late Majesty King George the Third, being now the Dominions in America of Her present Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said Convention, and set out and recited in the said first paragraph hereof, the said ship or vessel "Ella M. Doughty" was found to be fishing within the said distance of three marine miles of the said coasts, bays, creeks and harbours, contrary to the provisions of the said Convention, and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbour of St. Ann's by Donald McAulay and Lauchlin G. Campbell, officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

12. Between the said 10th and 17th days of May, 1886, and subsequently thereto, in the said Bay and Harbour of St. Ann's, within three marine miles of the shores thereof, and within three marine miles of the coasts, bays, creeks and harbours of those parts or portions of the Dominions in America of His late Majesty King George the Third, being now the Dominions in America of Her present Majesty Queen Victoria, not included within the limits specified and defined in the said first article of the said convention, and set out and recited in the said first paragraph hereof, the said ship or vessel "Ella M. Doughty" was found to have been fishing within the said distance of three marine miles of the said coasts, bays, creeks and harbours, contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo was thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbour of St. Ann's, by Donald McAulay and Lauchlin G. Campbell, officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

13. Between the said 10th and 17th days of May, 1886, and subsequently in the said bay and harbour of St. Ann's, within three marine miles of the shores thereof and within three marine miles of the coasts, bays, creeks and harbours of those parts or portions of the Dominions in America of His said late Majesty King George the Third, being now the Dominions in America of Her present Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention and set out and recited in the first paragraph hereof, the said ship or vessel "Ella M. Doughty" was found to be preparing to fish within the said distance of three marine miles of the coasts, bays, creeks and harbours, contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo was thereupon seized within three marine miles of the coasts or shores of the said Bay or Harbour of St. Ann's, by Donald McAulay and Lauchlin G. Campbell, officers of the Customs of Canada, as being liable to forfeiture for violation of the said Convention and of the said several Acts.

14. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty" and the officers and crew of the said ship or vessel "Ella M. Doughty," did, in the said ship or vessel "Ella M. Doughty" enter within three marine miles of the coast, bays, creeks and harbours of the Province of Nova Scotia being a portion of the Dominions of America in His said late Majesty King George the Third and now of Her said Majesty Queen Victoria not included within the limits specified and defined in the said first Article of the Convention and set out and recited in the first paragraph hereof for the purpose of procuring bait, that is to say, herrings, wherewith to fish and ice for the preservation on board said vessel of bait to be used in fishing and of fresh fish to be fished for, taken and caught by and upon the said vessel and by the master, officers and crew thereof, and did procure such bait wherewith to fish, and such ice for the purposes aforesaid, and did so enter for other purposes than the purpose of shelter or repairing damages or of purchasing wood or of obtaining water contrary to the provisions of the said Convention and of the said several Acts and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Province of Nova Scotia by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

15. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty" and the officers and crew of the said ship or vessel "Ella M. Doughty," did in the said ship or vessel "Ella M. Doughty," and while he and they and the said ship or vessel "Ella M. Doughty" were within three marine miles of the coasts, bays, creeks and harbours of the Province of Nova Scotia being a portion of the Dominions in America formerly of His said late Majesty King George the Third and now of Her Majesty Queen Victoria not included within the limits specified and defined in the said first Article of the said Convention and set out and recited in the said first paragraph hereof, fish for fish, take fish, and dry and cure fish, and were preparing to fish within the meaning of the said Convention and of the several

Acts hereinbefore mentioned contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Province of Nova Scotia by Donald McAulay and Lauchlin G. Campbell, officers of the Customs as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

16. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty," and the officers and crew of the said ship or vessel "Ella M. Doughty," were in the said ship or vessel "Ella M. Doughty," and while he and they and the said ship or vessel "Ella M. Doughty," were within three marine miles of the coasts, bays, creeks and harbours of the Province of Nova Scotia, being a portion of the Dominions in America, formerly of His late Majesty King George the Third, and now of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first article in the said Convention, set out and recited in the first paragraph hereof, preparing to fish within the meaning of the said Convention, and of the several Acts hereinbefore mentioned, contrary to the provisions of the said Convention, and of the said several Acts, and the said vessel "Ella M. Doughty," and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Province of Nova Scotia, by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for violation of the said Convention and of the said several Acts.

The Honourable John S. D. Thompson, Her Majesty's Attorney General, for the Dominion of Canada, on behalf of Her Majesty, the Queen, claims the condemnation of the said ship and her cargo and her guns, ammunition, tackle, apparel, furniture, and stores for violation of the said Convention and of the said several Acts.

(Sd.) WALLACE GRAHAM,  
*Solicitor for the Attorney General of Canada.*

No. 120.

*Mr. Stanhope to the Marquis of Lansdowne.*

DOWNING STREET, 5th August, 1886.

MY LORD,—I have the honour to transmit to Your Lordship a copy of a letter from the Foreign Office with a copy of a note from Mr. Bayard protesting against the action of Captain Kent of the Dominion cruiser "General Middleton" in refusing Stephen A. Balkam permission to buy fish from Canadians, and I have to request that you will obtain a report from your Government in reference to this case.

I have, &c.,

(Sd.) EDWARD STANHOPE.

Governor General

The Most Honourable

THE MARQUIS OF LANSDOWNE, G.C.M.G.

&c. &c. &c.

[Enclosure No. 1.]

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 2nd August, 1886.

SIR,—I am directed by the Earl of Rosebery to transmit to you a copy of a despatch from Her Majesty's Charge d'Affaires at Washington, enclosing a copy of a note from Mr. Bayard protesting against the action of Captain Kent of the Dominion cruiser "General Middleton" in refusing Stephen A. Balkam permission to buy fish from Canadians; and I am to suggest that Earl Granville should obtain a report on the subject from the Dominion Government.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

THE UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Mr. Hardinge to Earl of Rosebery.*

WASHINGTON, 17th July, 1886.

(Treaty No. 71.)

MY LORD,—With reference to my despatch No. 68 of this series, of the 12th instant, I have the honour to transmit herewith to Your Lordship a copy of a note which I have received from Secretary Bayard protesting against the action of Captain Kent, of the Dominion cruiser "General Middleton" in expelling Stephen R. Balkam from the Harbour of St. Andrews, New Brunswick, and in refusing to permit him to purchase fish caught and sold by Canadians for the purpose of canning as sardines.

I have, &amp;c.,

(Sd.) CHARLES HARDINGE.

The EARL OF ROSEBERY,  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Mr. Hardinge.*

WASHINGTON, 16th July, 1886.

SIR,—I have just received through the Honourable C. A. Boutelle, M.C., the affidavit of Stephen R. Balkam, alleging his expulsion from the Harbour of St. Andrews, N.B., by Captain Kent of the Dominion cruiser "Middleton," and the refusal to permit him to purchase fish, caught and sold by Canadians, for the purpose of canning as sardines.

The action of Captain Kent seems to be a gross violation of ordinary commercial privileges against an American citizen, proposing to transact his customary and lawful trade and not prepared, or intending, in any way to fish or violate any local law, or regulation, or treaty stipulation.

I trust instant instructions to prevent the recurrence of such unfriendly treatment of American citizens may be given to the offending officials at St. Andrew's and reparation be made to Mr. Balkam.

I have, &amp;c.,

(Sd.) T. F. BAYARD.

The Hon. C. HARDINGE.

No. 121.

*The Administrator to the Right Honourable E. Stanhope.*

HALIFAX, Nova Scotia, 21st August, 1886.

SIR,—With reference to Earl Granville's despatch of the 15th July last, addressed to the Marquis of Lansdowne, requesting a report from my Government on the subject of an enclosed note from the Secretary of the United States to Her Majesty's Minister at Washington, relating to certain Warnings alleged to have been given to United States' fishing vessels by the Collector of Customs at Canso I have the honour to forward herewith a copy of an approved report of a Committee of the Privy Council, embodying a report by my Minister of Marine and Fisheries on the subject.

I have, &amp;c.,

(Sd.) A. RUSSELL.

The Right Honourable  
EDWARD STANHOPE,  
&c., &c., &c.

## [Enclosure No. 1.]

*CERTIFIED copy of a Report of a Committee of the Honourable the Privy Council approved by His Excellency the Administrator of the Government in Council on the 16th August, 1886.*

The Committee of the Privy Council have had under consideration a despatch dated 15th July, 1886, from the Secretary of State for the Colonies in which he asks for a report from the Canadian Government on the subject of an enclosed note from Mr. Secretary Bayard to the British Minister at Washington, relating to certain warnings alleged to have been given to United States' fishing vessels by the Sub Collector of Customs at Canso.

Mr. Bayard states:—1st. "That the masters of the four American fishing vessels of Gloucester, Mass: "Martha C. Bradley," "Rattler," "Eliza Boynton," and "Pioneer," have severally reported to the Consul-General at Halifax that the Sub-Collector of Customs at Canso had warned them to keep outside an imaginary line drawn from a point three miles outside Canso Head to a point three miles outside St. Esprit on the Cape Breton coast."

2nd. "That the same masters also report that they were warned against going inside an imaginary line drawn from a point three miles outside North Cape in Prince Edward Island to a point three miles outside East Point on the same Island."

3rd. "That the same authority informed the masters of the vessels referred to that they "would not be permitted to enter Bay Chaleur."

The Minister of Marine and Fisheries to whom the despatch and enclosures were referred observes that the instructions issued to Collectors of Customs authorized them in certain cases to furnish United States' Fishing vessels with a copy of the circular hereto attached and which constitutes the only official "warning" of No. 89, and Enclosure No. 1 of No. 95. Collectors of Customs are empowered to give. It was to be presumed that the Sub-Collector of Customs at Canso, as all other Collectors, would carefully follow out the instructions as received, and that therefore no case such as that alleged by Secretary Bayard would be likely to arise.

The Minister states, however, that so soon as the despatch above referred to was received, he sent to the Sub-Collector at Canso a copy of the allegations and requested an immediate reply thereto. The Sub-Collector in answer emphatically denies that he has ordered any American vessel out of any harbour in his district or elsewhere, or that he did anything in the way of warning, except to deliver copies of the circular above alluded to, and states that he boarded no United States' vessel other than the "Annie Jordan" and the "Hereward," and that neither the "Martha C. Bradley," "Rattler," or "Pioneer," of Gloucester have during this season reported at his port of entry. He, with equal clearness, denies that he has warned any United States' Fishing vessels to keep outside the line from Cape North to East Point alluded to by Secretary Bayard, or that they would not be permitted to enter Bay Chaleur.

The Minister has every reason to believe the statements made by the Sub-Collector at Canso, and taking into consideration all the circumstances of the case, is of the opinion that the information which has reached the Secretary of State does not rest upon a trustworthy basis.

With reference to the concluding portion of Mr. Bayard's note, which is as follows:—

"Such warnings are, as you must be well aware, wholly unwarranted pretensions of extra territorial authority and usurpations of jurisdiction by the provincial officials.

"It becomes my duty in bringing this information to your notice to request that if any such orders for interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within three marine miles of the shores and within the defined limits, as to which renunciation of the liberty to fish, was expressed in the Treaty of 1818, may have been issued, the same may at once be revoked as violation of the rights of citizens of the United States under convention with Great Britain.

"I will ask you to bring this subject to the immediate attention of Her Britannic Majesty's Government to the end that proper remedial orders may be forthwith issued.

"It seems most unfortunate and regrettable that questions which have been long since settled between the United States and Great Britain should now be sought to be revived."

The Minister further observes that, in his opinion, the occasion of the present despatch, which has to deal mainly with questions of fact, does not render it necessary for him to enter upon any lengthened discussion of the question of headland limits. He cannot, however, do otherwise than place upon record the earnest expression of his entire dissent from the interpretation therein sought to be placed upon the Treaty of 1818 by the United States' Secretary of State.

The Committee concur in the foregoing report of the Minister of Marine and Fisheries, and advise that Your Excellency be moved to transmit a copy thereof to Her Majesty's Secretary of State for the Colonies.

(Sd.)

JOHN J. McGEE,  
Clerk Privy Council, Canada.

No. 122.

*The Administrator to the Honourable E. Stanhope.*

HALIFAX, N. S., 21st August, 1886.

(No. 18.)

SIR,—I caused to be referred to my Government a copy of Earl Granville's despatch No. 175, of the 29th ult., addressed to the Marquis of Lansdowne enclosing two despatches from Her Majesty's *Chargé d'affaires* at Washington containing protests of Mr. Bayard against the action of the authorities of the Dominion in regard to certain United States' fishing vessels.

2. I now have the honour to transmit herewith a copy of an approved report of a Committee of the Privy Council to which is annexed a report by the Minister of Marine and Fisheries relative to the circumstances under which the Secretary of State of the United States affirms that the American fishing steamer "Novelty" was not permitted to take in steam coal, purchase ice, or tranship fish in bond to the United States at Pictou, Nova Scotia.

3. You will observe that Mr. Foster's report deals also with Mr. Bayard's note of the 10th ultimo relating to the alleged threats by the Customs officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning as sardines.

I have, &amp;c.,

(Sd.)

A. RUSSELL.

The Right Honourable

EDWARD STANHOPE.

&amp;c., &amp;c., &amp;c.

[Enclosure No. 1.]

*Privy Council Report of 20th August.*

The Committee of the Privy Council have had under consideration the despatch dated 29th July last, from Her Majesty's Secretary of State for the Colonies, enclosing two notes from Mr. Secretary Bayard to the British Minister at Washington, and asking that Her Majesty's Government be furnished with a report upon the cases therein referred to.

The Committee respectfully submit the annexed report from the Minister of Marine and Fisheries, to whom the said despatch and its enclosures were submitted, and they advise that your excellency be moved to transmit a copy thereof, if approved, to Her Majesty's principal Secretary of State for the Colonies.

[Enclosure No. 2.]

OTTAWA, 14th August, 1886.

The undersigned has the honour to submit the following, in answer to a despatch from Lord Granville to the Governor General under date 27th July last, enclosing two notes from Mr. Secretary Bayard to the British Minister at Washington, and asking that Her Majesty's Government be furnished with a report upon the cases therein referred to.

In his first communication, dated 10th July, Mr. Bayard says:—

"I have the honour to inform you that I am in receipt of a report from the Consul General of the United States at Halifax, accompanied by sworn testimony, stating that the "Novelty," a duly registered merchant steam vessel of the United States, has been denied the right to take in steam coal, or purchase ice, or tranship fish in bond to the United States, at Pictou, Nova Scotia.

"It appears, that having reached that port on the 1st instant, and finding the Customs office closed on account of a holiday, the master of the "Novelty" telegraphed to the Minister of Marine and Fisheries at Ottawa, asking if he would be permitted to do any of the three things mentioned above; that he received in reply a telegram reciting with certain inaccurate and extended application the language of Article I of the Treaty of 1818, the limitations upon the significance of which are in pending discussion between the Government

of the United States and that of Her Britannic Majesty; that on entering and clearing the "Novelty" on the following day at the Customs House, the Collector stated that his instructions were contained in the telegram the master had received, and that the privilege of coaling being denied, the "Novelty" was compelled to leave Pictou without being allowed to obtain fuel necessary for her lawful voyage on a dangerous coast.

"Against this treatment I make instant and formal protest, as an unwarranted interpretation and application of the Treaty, by the officers of the Dominion of Canada and the Province of Nova Scotia, as an infraction of the laws of commercial and maritime intercourse, existing between the two countries, and as a violation of hospitality, and for any loss or injury resulting therefrom the Government of Her Britannic Majesty will be held liable."

With reference to this, the undersigned begs to observe that Mr. Bayard's statement appears to need modification in several important particulars. In the first place, the "Novelty" was not a vessel regularly trading between certain ports in the United States and Canada, but was a fishing vessel, whose purpose was to carry on the mackerel seining business in the waters of the Gulf of St. Lawrence, around the coast of Prince Edward Island and Nova Scotia; that she had on board a full equipment of seines and fishing apparatus and men; that she was a steam vessel and needed coal, not for the purpose of cooking or warming, but to produce motive power for the vessel, and that she wished to pursue her business of fishing in the above-named waters, and to send her fares home over Canadian Territory, to the end that she might the more uninterruptedly and profitably carry on her business of fishing. That she was a fishing vessel and not a merchant vessel, is proved not only by the facts above-mentioned, but also from a telegram over the signature of H. B. Joyce, the Captain of the vessel, a copy of which is appended. In his telegram, Captain Joyce indicates the character of his vessel by using the words "American Fishing Steamer," and he signs himself "H. B. Joyce, Master Fishing Steamer, 'Novelty.'"

There seems, no doubt therefore, that the "Novelty" was in character, and in purpose, a fishing vessel, and as such comes under the provision of the Treaty of 1818, which allows United States fishing vessels to enter Canadian ports "for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever."

The object of the Captain was to obtain supplies for the prosecution of his fishing, and to tranship his cargoes of fish at a Canadian port, both of which are contrary to the letter and spirit of the Convention of 1818.

To Mr. Bayard's statement, that in reply to Captain Joyce's enquiry of the Minister of Marine and Fisheries, he received in reply a telegram reciting with certain inaccurate and extended application, the language of Art. I of the Treaty of 1818, the undersigned considers it a sufficient answer to adduce the telegrams themselves.

1st. Enquiry by the captain of the "Novelty":

*Hon. George E. Foster, Minister of Marine and Fisheries, Ottawa.*

PICTOU, N.S., 1st July, 1886.

Will the American fishing steamer now at Pictou be permitted to purchase coal or ice, or to tranship fresh fish, in bond, to the United States' markets? Please answer.

(Sd.)

H. B. JOYCE,  
Master of fishing steamer "Novelty."

2nd. Reply of the Minister of Marine and Fisheries thereto:

*To H. B. Joyce, Master American steamer "Novelty," Pictou, N.S.*

OTTAWA, 1st July, 1886.

By terms of Treaty 1818, United States' fishing vessels are permitted to enter Canadian ports for shelter, repairs, wood and water, and for no other purpose whatever. That treaty is now in force.

(Sd.)

GEO. E. FOSTER,  
Minister of Marine and Fisheries.

The undersigned fails to observe wherein any "inaccurate or extended application" of the language of the treaty can be found in the above answer, inasmuch as it consists of a *de facto* citation from the treaty itself with the added statement for the information of the captain, that said treaty was at that time in force. As to the "unwarranted interpretation and application of the treaty," of which Mr. Bayard speaks, the undersigned has already

discussed that phase of the question in his memorandum of 14th June, which was adopted by Council, and has been forwarded to Her Majesty's Government.

Mr. Bayard's second note is as follows :—"On the 2nd of June last I had the honour to inform you that despatches from Eastport, in Maine, had been received, reporting threats by the customs officials of the Dominion, to seize American boats coming into those waters to purchase herring from the Canadian weirs, for the purpose of canning the same as sardines, which would be a manifest infraction of the right of purchase and sale of herring caught and sold by Canadians in their own waters in the pursuance of legitimate trade.

"To this note I have not had the honour of a reply.

"To-day, Mr. C. A. Boutelle, M.C., from Maine, informs me that American boats boats visiting St. Andrews, N.B., for the purpose of there purchasing herring from the Canadian weirs, for canning, had been driven away by the Dominion cruiser ' Middleton.'

"Such inhibition of usual and legitimate commercial contracts and intercourse is assuredly without warrant of law, and I draw your attention to it, in order that the commercial rights of the citizens of the United States may not be thus invaded and subjected to unfriendly discrimination."

With reference to the above the undersigned observes that so far as his information goes, no Collectors of Customs or captains of cruisers have threatened to "seize American boats coming into Canadian waters to purchase herring from Canadian weirs for the purpose of canning them as sardines."

Collectors of Customs have however, in pursuance of their duties under the Customs law of Canada, compelled American vessels coming to purchase herring to enter and clear in conformity to Customs law.

With reference to the action of the Dominion cruiser " Middleton," the undersigned cannot do better than quote from the official report of the captain of that vessel as to the facts of the case referred to. In his report of date 9th July, 1886, Captain McLean, of the "General Middleton" says :—

"At 9 a. m. made sail and drifted with the tide towards the bay. Seeing a large number of boats of various sizes hovering around the fishing weirs, I ordered the boat in waiting and sent officer Kent in charge, giving him instructions to row among the boats and see if there were any Americans purchasing fish. On the return of the boat, Chief Officer Kent reported the boats mentioned were Americans there for the purpose of getting herring. I immediately directed the Chief Officer to return and order the American boats to at once report themselves to the Collector of the port and get permits to load fish or leave without further delay. One of the boatmen complied with the request and obtained a permit to load fish for Eastport; the others were very much disturbed on receiving the above instructions and sailed away towards the American side of the river and commenced blowing their foghorns, showing their contempt. Other boats at a greater distance seeing our boat approaching did not wait her arrival but up sail and left for the American shore."

The above extract from the report of the Chief Officer of the "General Middleton" goes to show that it was not his object to prevent American boats from trading in sardines, but rather to prevent them from so trading without having first conformed to the Customs law of Canada.

The whole respectfully submitted.

(Sd.)

GEORGE E. FOSTER,

*Minister of Marine and Fisheries.*

No. 123.

*The Administrator to the Minister at Washington.*

[No. 2.]

HALIFAX, 21st August, 1886.

SIR,—With reference to your despatch No. 88 of the 3rd instant, addressed to His Excellency the Governor General, transmitting a copy of a note from the Secretary of State of the United States, requesting to be furnished with certain papers relating to Canadian Fisheries, I have the honor to forward herewith a copy of a letter from the Department of Fisheries, enclosing copies, in duplicate, of the papers required.

I have, &c.,

(Sd.)

A. G. RUSSELL.

The Honorable

Sir L. S. SACKVILLE WEST, K.C.M.G.

[Enclosure No. 1.]

DEPARTMENT OF FISHERIES.

OTTAWA, 18th August, 1886.

SIR,—Having reference to a despatch from the British Minister at Washington, dated 3rd instant, covering a request from the Hon. Mr. Bayard to be furnished with certain papers relating to Canadian Fisheries, I have the honour, by direction of the Minister of Marine and Fisheries, to enclose herewith for transmission to the British Minister, duplicate copies of:—

Chap. 95, Revised Statutes. The Fisheries Act;

do. 94 do

49 Vic., Chap. 114.

Enc.: No. 2 of No. 33.

The Act respecting fishing by Foreign vessels, and amendments thereto;

“Warnings” to Foreign fishing vessels.

I have the honour to be, Sir, your obedient servant,

(Sd.) S. P. BAUSET,

*For Deputy Minister of Fisheries.*

Capt. HARRY STREATFEILD,  
Governor General's Secretary,  
Ottawa.

(Telegram.)

No. 124.

*Secretary of State for the Colonies to the Governor General.*

21st August, 1886.

“The Government of the United States complains that the Customs’ officials at Port Amherst, Magdalen Islands, threaten the schooner “Mascotte” with seizure in case any attempt to obtain bait for fishing, or to take a pilot is made by that vessel. Under the Treaty of 1818 the United States have the right to fish these Islands. It is presumed that the Customs’ officers on the Magdalens have not been instructed in the same manner as those on the remaining coasts of the Dominion.

(Sd.) STANHOPE.

No. 125.

*Mr. Stanhope to the Administrator.*

DOWNING STREET, 25th August, 1886.

SIR,—I have the honour to transmit to you a copy, received through the Foreign Office, of a despatch from Her Majesty’s *Chargé d’affaires* at Washington, with a note from Mr. Bayard, calling attention to alleged infractions of the Convention of 1818 by the authorities of Canada and Newfoundland at the Magdalen Islands and Bonne Bay respectively.

In my telegram of the 21st instant, I drew your attention to the case at the Magdalen Islands, and I pointed out that United States’ fishermen have the right under the Convention of 1818 to fish off the coasts of the Magdalen Islands.

I have now to request that your Government will furnish me with a full report upon the subject of Mr. Bayard’s complaint, so far as it relates to the action of the Canadian authorities. Her Majesty’s Government would recommend that special instructions should be issued to the authorities at those places where the inshore fishery has been granted by the Convention of 1818 to United States’ fishermen, calling their attention to the provisions of that Convention, and warning them that no action contrary thereto may be taken in regard to United States’ fishing vessels.

I have, &amp;c.,

(Sd.) EDWARD STANHOPE.

THE OFFICER ADMINISTERING  
The Government of Canada.

[Enclosure No. 1.]

*Mr. Hardinge to Lord Rosebery.*

[Treaty No. 74.]

WASHINGTON, 31st July, 1886.

MY LORD,—I have the honour to transmit herewith to Your Lordship, copy of a note which I have received from Mr. Bayard, drawing my attention to an alleged infraction of the stipulation of the Treaty of October 20th, 1818, by the Newfoundland authorities at Bonne Bay, in the case of the fishing vessel "Thomas F. Bayard," and by the Dominion authorities at Port Amherst, Magdalen Islands, in the case of the schooner "Mascotte."

I have, &amp;c.,

(Sd.) CHARLES HARDINGE.

The EARL OF ROSEBURY,  
&c., &c., &c.

[Enclosure No. 2.]

*Mr. Bayard to Honourable C. Hardinge.*

DEPARTMENT OF STATE, WASHINGTON.

SIR,—It is my duty to draw your attention to an infraction of the Treaty between the United States of America and Great Britain, concluded 20th, October 1818.

By the provisions of Art. 1, of that Convention, the liberty to take fish of every kind, forever, in common with the subjects of His Britannic Majesty, is secured to the inhabitants of the United States "on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands," and on the other coasts and shores in the said article set forth.

Notwithstanding these plain provisions, I regret to be obliged to inform you that by the affidavit of the master of the American fishing vessel "Thomas F. Bayard," that being at Bonne Bay, which is on the western coast of Newfoundland, and within the limits specified in Article 1 of the Convention referred to, the master of the said vessel was formally notified by one N. N. Taylor, the Officer of Customs at that point, that his vessel would be seized if he attempted to obtain a supply of fish for bait, or for any other transaction in connection with fishing operations within three marine miles of that coast.

To avoid the seizure of his vessel, the master broke up his voyage and returned home.

I am also in the possession of the affidavit of Alex. T. Vachem, master of the American fishing schooner, "Mascotte," who entered Port Amherst, Magdalen Islands, and was there threatened by the Customs Official with seizure of his vessel if he attempted to obtain bait for fishing or to take a pilot.

These are flagrant violations of Treaty rights of their citizens, for which the United States expect prompt remedial action by Her Majesty's Government, and I have to ask that such instructions may be issued forthwith to the provincial officials of Newfoundland and the Magdalen Islands as will cause the Treaty rights of citizens of the United States to be duly respected.

For the losses occasioned in the two cases I have mentioned, compensation will hereafter be expected from Her Majesty's Government when the amount shall have been accurately ascertained.

I have, &amp;c.,

(Sd.) T. F. BAYARD.

The HONOURABLE C. HARDINGE.

(Telegram.)

No. 126.

*The Secretary of State to Lord Lansdowne.*

1st September, 1886.

Report should be made as to treatment United States' fishing boat "Rattler." Alleged compelled report Customs when seeking Shelburne Harbour. Despatch follows by mail.

(Sd.) SECRETARY OF STATE.

No. 127.

(No. 195.)

*Mr. Stanhope to the Administrator.*

DOWNING STREET, 1st September, 1886.

MY LORD,—I have the honour to transmit to you, for communication to your Ministers, a copy of a letter from the Foreign Office, with its enclosures, respecting the alleged unfriendly treatment of the United States' fishing schooner "Rattler" in Shelburne Harbour, and I request that you will obtain from your Government a report upon the case.

I have, &amp;c.,

(Sd.) EDWARD STANHOPE.

THE OFFICER ADMINISTERING  
The Government of Canada.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 26th August, 1886.

SIR,—I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's *Chargé d'affaires* at Washington, enclosing a copy of the protest by Mr. Bayard against alleged unfriendly treatment of the United States' fishing schooner "Rattler," in Shelburne Harbour, and I am to request that a report on the subject may be obtained from the Dominion Government.

I am, &amp;c.,

(Sd.) P. W. CURRIE.

THE UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Mr. Hardinge to the Earl of Iddesleigh.*

[TREATY No. 77.]

WASHINGTON, 10th August, 1886.

MY LORD,—I have the honour to transmit herewith to Your Lordship a copy of a note which I have received from the Secretary of State, drawing the attention of Her Majesty's Government to the alleged unwarrantable and unfriendly treatment experienced by the American fishing schooner "Rattler," on the 3rd instant, upon the occasion of her being driven by stress of weather to seek shelter in the Harbour of Shelburne, N. S.

I have, &amp;c.,

(Sd.) CHARLES HARDINGE.

THE EARL OF IDDESLEIGH.  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Mr. Hardinge.*

DEPARTMENT OF STATE,  
WASHINGTON, 9th August, 1886.

SIR,—I regret that it has become my duty to draw the attention of Her Majesty's Government to the unwarrantable and unfriendly treatment, reported to me this day by the United States' Consul General at Halifax, experienced by the American fishing schooner "Rattler," of Gloucester, Mass., on the 3rd instant, upon the occasion of her being driven by stress of weather to find shelter in the harbour of Shelburne, N.S.

She was deeply laden, and was off the harbour of Shelburne when she sought shelter in a storm, and cast anchor just inside the harbour's entrance.

She was at once boarded by an officer of the Canadian cutter "Terror" who placed two men on board.

When the storm ceased, the "Rattler" weighed anchor to proceed on her way home, when the two men placed on board by the "Terror" discharged their pistols as a signal, and an officer from the "Terror" again boarded the "Rattler" and threatened to seize the vessel unless the captain reported at the Custom House.

The vessel was then detained until the captain reported at the Custom House, after which she was permitted to sail.

The hospitality which all civilized nations prescribe has thus been violated, and the stipulations of a treaty grossly infringed.

A fishing vessel denied all the usual commercial privileges in a port has been compelled strictly to perform commercial obligations.

In the interests of amity I ask that this conduct may be properly rebuked by the Government of Her Majesty.

I have, &c.,

(Sd.)

T. F. BAYARD,

The Honourable CHARLES HARDINGE,  
&c., &c., &c.

No. 128.

*Mr. Stanhope to the Administrator.*

[No. 202.]

DOWNING STREET, 9th September, 1886.

MY LORD,—I have the honour to transmit to you herewith a copy of a letter from the Foreign Office, enclosing a copy of a despatch from Her Majesty's Minister at Washington with copy of a note from Mr. Bayard protesting against the action of the commander of the Canadian schooner "F. E. Conrad" in forbidding the master of the United States' schooner "Golden Hind" to enter the Bay of Chaleur for the purpose of renewing his supply of fresh water.

I have to request that you will obtain from your Government with the least possible delay a report in reference to this matter; and that you will direct their special attention to the last paragraph of the letter from the Foreign Office.

I have, &c.,

(Sd.)

EDWARD STANHOPE.

The OFFICER ADMINISTERING  
The Government of Canada.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 6th September, 1886.

SIR,—I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington enclosing a copy of a note from Mr. Bayard protesting against the action of the officer of the Canadian schooner "F. E. Conrad" in forbidding the master of the United States' schooner "Golden Hind" to enter the Bay of Chaleur for the purpose of renewing his supply of fresh water at that place.

The warning off of the vessel under the circumstances stated would appear to be a distinct breach of the Convention of 1818, and Lord Iddesleigh would therefore suggest that the Canadian Government should be requested to furnish with the least possible delay a report on the case.

Lord Iddesleigh further suggests for the consideration of Mr. Stanhope, that in calling for the report in question it would be highly desirable to add that Her Majesty's Government earnestly hope the Dominion Government will take prompt steps to prevent any infraction

of the Convention on their side, and that, if the facts stated by Mr. Bayard are correct, steps will be at once taken by the Dominion Government to reprimand the officials concerned.

I am, &c.,

(Sd.) P. W. CURRIE.

THE UNDER SECRETARY OF STATE  
Colonial Office.

[Enclosure No. 2.]

*Sir. L. West to the Earl of Iddesleigh.*

[TREATY No. 78.]

WASHINGTON, 18th August, 1886.

MY LORD,—I have the honour to transmit herewith to Your Lordship a copy of a note which I have received from the Secretary of State, protesting against the action of the officer of the Canadian schooner "F. E. Conrad," in forbidding the master of the American schooner "Golden Hind," to enter the Bay of Chaleur for the purpose of renewing his supply of fresh water at that place.

I have, &c.

(Sd.) L. SACKVILLE WEST.

THE EARL OF IDDESLEIGH,  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Sir L. West.*

WASHINGTON, 17th August, 1886.

SIR,—An affidavit has been filed in this Department by Reuben Cameron, master of the American schooner "Golden Hind," of Gloucester, Mass., setting forth that on or about the 23rd of July, ultimo, being out of water, he attempted to put into Port Daniel, Bay of Chaleur, to obtain a fresh supply; that at the entrance of the Bay, about four or five miles from land, the "Golden Hind" was boarded by an officer from the Canadian schooner "F. E. Conrad," and by him ordered not to enter the Bay of Chaleur; that said officer furnished Captain Cameron with a printed "Warning," with this endorsement written thereon, "Don't enter the Bay of Chaleur;" and that in consequence of said act of the Canadian officer the "Golden Hind" was obliged to go to Tignish, Prince Edward Island, to obtain water, whereby the fishing venture was interfered with, and loss and injury caused to the vessel and her owners.

I have the honour to protest against this act of the officers of Her Britannic Majesty as not only distinctly unfriendly and contrary to the humane usage of civilized nations, but as in direct violation of so much of Article I of the Convention of 1818 between the United States and Great Britain as secures forever to American fishermen upon the British North American coast admission to the bays or harbours thereof, for the purpose of obtaining water. And for all loss or injury which may be shown to have accrued by reason of the act in question, the Government of Her Britannic Majesty will be held justly liable.

I have further the honour to ask with all earnestness that the Government of Her Britannic Majesty will cause steps to be forthwith taken to prevent and rebuke acts so violative of treaty and of the common rights of hospitality.

I have, &c.

(Sd.) T. F. BAYARD.

The Honourable  
SIR L. S. S. WEST, K.C.M.G..  
&c., &c., &c.

No. 129.

*Mr. Stanhope to the Administrator.*

[No. 203.]

DOWNING STREET, 9th September, 1886.

MY LORD,—I have the honour to transmit to you a copy of a letter from the Foreign Office, enclosing a copy of a despatch from Her Majesty's Minister at Washington, with copy of a note from the United States' Secretary of State calling attention to causes of complaint alleged by the masters of several United States' fishing vessels against the Captain of the Canadian cruiser "Terror."

I request you to obtain from Your Government a report upon the subject of this complaint.

I have, &c.,  
(Sd.) EDWARD STANHOPE.

THE OFFICER ADMINISTERING  
The Government of Canada.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 4th September, 1886.

SIR,—I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington, enclosing a copy of a note from the United States' Secretary of State calling attention to causes of complaint alleged by the masters of several United States' fishing vessels against Captain Quigley, of the Canadian cruiser "Terror," and I am to request that a report on the subject may be obtained from the Dominion Government.

I am, &c.,  
(Sd.) P. W. CURRIE.

THE UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Sir L. S. S. West to Earl Iddesleigh.*

[Treaty No. 80.]

WASHINGTON, 19th August, 1886.

MY LORD,—I have the honour to transmit herewith to Your Lordship copy of a note which I have received from the Secretary of State, informing me of the causes of complaint alleged by the masters of several American fishing vessels against Captain Quigley, of the Canadian cruiser "Terror."

I have, &c.,  
(Sd.) L. SACKVILLE WEST.

THE EARL OF IDDESLEIGH, G.C.B.,  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Sir L. West.*

WASHINGTON, 18th August, 1886.

SIR,—Grave cause of complaint is alleged by the masters of several American fishing vessels, among which can be named the schooner "Shiloh" and "Julia Ellen" against the hostile and outrageous misbehaviour of Captain Quigley of the Canadian cruiser "Terror," who, upon the entrance of these vessels into the harbour of Liverpool, N.S., fired a gun across their bows to hasten their coming to, and placed a guard of two armed men on board each vessel, who remained on board until the vessels left the harbour.

In my note to your Legation of the 9th inst., I made earnest remonstrances against another unfriendly act of Captain Quigley against the schooner "Rattler" of Gloucester, Mass., which, being fully laden, and on her homeward voyage, sought shelter from stress of weather in Shelburne Harbour, N.S., and was there compelled to report at the Custom House and have a guard of armed men kept on board.

Such conduct cannot be defended on any just ground, and I draw your attention to it in order that Her Britannic Majesty's Government may reprimand Captain Quigley for his unwarranted and rude act.

It was simply impossible for this officer to suppose that any invasion of the fishing privileges of Canada was intended by these vessels under the circumstances.

The firing of a gun across their bows was a most unusual and wholly uncalled for exhibition of hostility, and equally so was the placing of armed men on board the peaceful and lawful craft of a friendly neighbour.

I have, &c.,

(Sd.) T. F. BAYARD.

The Honourable

SIR LIONEL WEST, K.C.M.G.,  
&c., &c., &c.

(Telegram.)

No. 130.

*The Administrator to the Secretary of State for the Colonies.*

14th September, 1886.

Referring to your telegram of 1st September relative to fishing boat "Rattler" facts are as follows: On morning of 4th August her captain called on Collector of Customs, Shelburne, accompanied by chief officer Fisheries Police cutter and reported his vessel inwards laden with mackerel, for shelter. Afterwards chief officer informed Collector of Customs fishing boat found previous evening at anchor five miles down harbour; two men from fisheries police cutter put on board and master required to report at Custom House in morning. Master attempted to put to sea at night but prevented by fisheries police officers.

(Sd.) A. G. RUSSELL.

No. 131.

*The Administrator to Mr. Stanhope.*

[No. 31.]

HALIFAX, 21st September, 1886.

SIR,—I have the honour to enclose herewith for your information copy of a circular No. 373 of the Canadian Customs in relation to the coasting trade of the Dominion.

I understand that a General Regulation dealing with this subject is now in course of preparation by the Department of Customs for confirmation by my Privy Council.

I shall take care that a copy of this document is forwarded for your information whenever it is available.

I have, &c.,

(Sd.) A. G. RUSSELL.

The Right Honourable

EDWARD STANHOPE,  
&c., &c., &c.

[Enclosure No. 1.]

CUSTOMS DEPARTMENT,

OTTAWA, 14th August, 1886.

[Circular No. 373.]

SIR,—Numerous seizures have been recently made by Officers of the Special Agent's Branch of this Department, which, with other evidence in the possession of the Department, goes to show that great laxity exists on the part of Collectors and other Customs Officers, in connection with traffic going on in small open boats and fishing vessels between Canadian and foreign ports.

I am directed by the Hon. the Minister of Customs to call your attention to certain requirements of the Customs Law and Regulations bearing upon this subject, and to enjoin upon you the necessity for greater vigilance and a stricter enforcing of the law than you have apparently been in the habit of insisting upon.

Section 38 of the Customs Act declares that it shall not be lawful, unless otherwise authorized by the Governor in Council, to import goods, wares or merchandise from any port or place out of Canada in any vessel which has not been duly registered and has not a certificate of registry on board.

Sections 141 to 150 relating to the exportation of goods require that any vessel outward bound shall deliver to the Collector a proper entry and report of all goods on board, and prohibits officers giving clearances until such report and entry has been made, and fixes penalties for non-observance of these requirements.

Section 37 gives authority to the Governor in Council to make regulations respecting coasting voyages. These regulations you will find embodied in an Order in Council bearing date the 17th of April, 1883, they declare what shall be considered a coasting trade, and what vessels only can be allowed to conduct such trade, viz.: Only British registered vessels and boats wholly owned by British subjects, and such other boats and vessels as may be owned by the subjects of countries included in any treaty with Great Britain, by which the coasting trade is mutually conceded.

As there is no reciprocal coasting trade existing between Great Britain and the United States, United States vessels cannot be allowed to in any manner participate in such trade.

Coasters are not permitted to go on a foreign voyage without reporting in the same manner as would be required from all vessels not coasters.

Foreign vessels or boats must not be allowed to go from place to place in Canadian waters for the purpose of making up or seeking a cargo, as such a course would be in violation of the coasting regulations.

The Collector of a port may assign to such vessels a landing berth at any one place within the limits of his jurisdiction, but must not allow vessels to go from place to place in order to fill up or take in her cargo.

No permits are to be given under any circumstances, by Customs Officers, under cover of which, or under pretext of which, any law or regulation can be evaded.

Stringent means must be taken to confine all small or unregistered vessels within the strict limits allowed by law and regulations.

Vessels or boats of any kind or class, although of Canadian build, or owned by Canadians, which have been entered as personal property, or otherwise, and on which duty has been paid in any foreign port, must be considered strictly as foreign boats, and excluded from any rights that might attach to them had they not been so entered, as such entry changes their nationality as much so as if they had been formally registered.

In order to insure the better protection of the revenue, it is absolutely necessary that these instructions receive your closest attention, and that all vessels irrespective of their nationality be required to observe the same.

I have the honour to be, Sir,

Your obedient servant,

(Sd.)

W. G. PARMELEE,

Assistant Commissioner.

No. 132.

*The Administrator to Mr. Stanhope.*

(No. 32.)

CANADA, HALIFAX, N.S., 21st September, 1886.

SIR,—I have the honour to enclose herewith a certified copy of a minute of my Privy Council, embodying a Report of the Minister of Customs for the Dominion in

relation to the alleged improper treatment of the United States' fishing schooner "Rattler," in being required to report to the Collector of Customs at Shelburne, Nova Scotia, when seeking that harbour for shelter.

The reply of the Collector to the enquiries addressed to him in respect to this matter is appended to the Minister's Report, and in it the facts of the case, as set forth in my telegram of the 14th instant are given.

I have communicated your Despatch No. 195 of the 1st. instant forwarding Mr. Bayard's protest concerning this case to my Ministers and requested to be furnished with a report thereon, which I shall forward for your information as soon as it has been received.

I have, &c.,

(Sd.)

A. G. RUSSELL.

The Right Honourable  
EDWARD STANHOPE,  
Colonial Office.

[Enclosure No. 1.]

[No. 356G.]

*CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada approved by His Excellency the Administrator of the Government in Council, on the 16th September, 1886.*

The Committee of Council have had before them a cablegram from the Right Honourable the Secretary of State for the Colonies, dated 1st September, 1886, as follows:—

"Report should be made as to treatment United States' fishing boat "Rattler," alleged compelled report Customs when seeking Shelburne Harbour. Despatch follows by mail."

The Minister of Customs, to whom the cablegram was referred for immediate report, caused a telegram to be forwarded to the Collector of Customs at Shelburne to the effect that it was "stated that United States' fishing boat 'Rattler' compelled report Customs when seeking Shelburne Harbour; what were circumstances; answer by telegram, and report in full by mail," and he submits the report, dated 6th September, instant, from Mr. Atwood, the Collector of Customs at Shelburne.

The Committee advise that Your Excellency be moved to cable a copy of the report above mentioned for the information of the Right Honourable the Secretary of State for the Colonies.

(Sd.)

JOHN J. MCGEE,  
Clerk, Privy Council, Canada.

[Enclosure No. 2.]

CUSTOM HOUSE,

SHELburne, 6th September, 1886.

SIR,—I have to acknowledge receipt of your telegram of 4th instant, relative to schooner "Rattler," and I wired an answer this morning as requested.

On the morning of 4th ultimo, Chief Officer of "Terror," accompanied by Captain A. F. Cunningham, called at this office. Captain Cunningham reported his vessel inwards, as follows, viz., "Schooner 'Rattler,' of Gloucester, 93 tons register, 16 men, from Fishing Bank, with 465 barrels mackerel, came in for shelter." I was afterwards informed by the officer of cutter that they found the schooner the evening before at anchor off Sandy Point, five miles down the harbour; two men from cutter were put on board, and the master required to report at Customs in the morning. I was also informed that the master, Captain Cunningham, made an attempt to put to sea in the night, by hoisting sails, weighing anchor, &c., but was stopped by officers from cutter.

I am, &c.,

(Sd.)

W. W. ATWOOD,  
Collector.

The COMMISSIONER OF CUSTOMS,  
Ottawa.

No. 133.

*The Administrator to Mr. Stanhope.*

HALIFAX, N.S., 25th September, 1886.

SIR,—With reference to your despatch of the 5th ultimo, transmitting a copy of a letter from the Foreign Office with a copy of a note from Mr. Bayard protesting against the action of Captain Kent, of the Dominion cruiser "General Middleton," in refusing Stephen R. Balkam permission to buy fish from Canadians, I have the honour to forward herewith a copy of an approved report of a Committee of the Privy Council embodying a report of my Minister of Marine and Fisheries on the subject.

I have, &c.,  
(Sd.)

A. G. RUSSELL.

[Enclosure No. 1]

[No. 332G.]

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Administrator of the Government in Council on the 21st September, 1886.

The Committee of the Privy Council have had under their consideration a despatch dated 5th August, 1886, from the Right Honourable the Secretary of State for the Colonies transmitting a copy of a letter from the Foreign Office with a copy of a note from Mr. Bayard protesting against the action of Captain Kent of the Dominion cruiser "General Middleton" in refusing Stephen R. Balkam permission to buy fish from Canadians.

The Minister of Marine and Fisheries to whom the despatch and enclosures were referred, submits the following report from the First Officer of the "General Middleton":—

HALIFAX, 25th August, 1886.

"I have the honour to state that when boarding several boats in St. Andrew's Bay I asked Stephen R. Balkam, if the boat he was in was American. He replied that he thought she was. I informed him that if she was American he could not take fish from the weirs on the English side without a permit from the Collector of Customs at St. Andrews or West Isles.

"He asked permission to take the fish from the weirs in Kelly's Cove without a permit. I declined to accede to his request.

"Mr. Balkam went around the point in his boat and after accosting several others I met him again evidently trying to evade my instructions. I told him that he must not take the fish without permission from the Customs. He left for the American shore and I returned to the 'Middleton.'

"Mr. Stephen R. Balkam I have known for some years. He formerly belonged to St. Andrews but is now living in Eastport. His business is to carry sardines from the English side to Eastport for canning purposes."

The Minister is of opinion, in view of the above, that in warning Mr. Balkam, that if his boat belonged to the United States he could not take herring from the weirs without first having reported at the Custom House, Mr. Kent acted within the scope of the law and his instructions.

The Committee respectfully advise that Your Excellency be moved to transmit a copy of this minute to the Right Honourable the Secretary of State for the Colonies as requested in his despatch of the 5th August last.

(Sd.)

JOHN J. McGEE,  
Clerk, Privy Council, Canada.

No. 134.

*Mr. Stanhope to the Administrator.*

[No. 218.]

DOWNING STREET, 6th October, 1886.

MY LORD,—I have the honor to transmit to Your Lordship herewith a copy of a letter from the Foreign Office enclosing copy of a despatch from Her Majesty's Minister at Washington, with a note from the Secretary of State of the United States calling attention to the alleged refusal of the Collector of Customs at Port Mulgrave, Nova Scotia, to allow the master of the United States' fishing vessel "Mollie Adams" to purchase barrels to hold a supply of water for the return voyage.

I have to request that you will obtain from your Government an early report in reference to this case.

I have, &amp;c.,

(Sd.) EDWARD STANHOPE.

THE OFFICER ADMINISTERING  
The Government of Canada.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 4th October, 1886.

SIR,—I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington enclosing a copy of a note from the United States' Secretary of State, calling attention to an alleged refusal of the Collector of Customs at Port Mulgrave, Nova Scotia, to allow the master of the United States' fishing vessel "Mollie Adams" to purchase barrels to hold a supply of water for the return voyage; and I am to request that a report on the subject may be obtained from the Dominion Government.

I have, &amp;c.,

(Sd.) J. PAUNCEFOTE.

THE UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Sir L. West to the Earl of Iddesleigh.*

[Treaty No. 82.]

WASHINGTON, 11th September, 1886,

MY LORD,—I have the honour to transmit herewith a copy of a note from the Secretary of State dated the 10th inst., calling attention to the case of an American fishing vessel the "Mollie Adams", on account of the alleged refusal of the Collector of Customs at Port Mulgrave, Nova Scotia, to allow the master of the "Mollie Adams" to purchase barrels to hold a supply of water for the return voyage.

I have, &amp;c.,

(Sd.) L. S. S. WEST.

THE EARL OF IDDESLEIGH,  
&c., &c., &c.

[Enclosure No. 3.]

*United States' Secretary of State to Sir L. S. West.*

WASHINGTON, 10th September, 1886.

SIR,—It is my duty to ask you to bring to the attention of Her Britannic Majesty's Government the treatment lately experienced by an American fishing vessel, the "Mollie Adams," of Gloucester, Mass., at the hands of the Collector of Customs at Port Mulgrave, in the Strait of Canso, Nova Scotia.

By the sworn statement of Solomon Jacobs, master of the schooner "Mollie Adams," it appears that on the 31st ult., whilst on his homeward voyage, laden with fish from the fishing banks, he was compelled to put into Port Mulgrave to obtain water, and duly made report and entry at the Custom House.

The water tank of the vessel having been burst in his voyage by heavy weather, he asked permission of the Collector to purchase two or three barrels to hold a supply of water for his crew on their homeward voyage of about 500 miles. The application was refused and his vessel threatened with seizure if barrels were purchased. In consequence the vessel was compelled to put to sea with an insufficient supply of water, and in trying to make some other port wherein to obtain water a severe gale was encountered which swept away his deck load of fish and destroyed two seine boats.

This inhospitable, indeed, inhuman conduct on the part of the Customs Officer in question should be severely reprimanded, and for the infraction of Treaty rights and commercial privileges, compensation equivalent to the injuries sustained, will be claimed from Her Majesty's Government.

I have, &amp;c.,

(Sd.) T. F. BAYARD.

The Honourable

SIR L. S. WEST, K.C.M.G.,  
&c., &c., &c.

(Telegram.)

No. 135.

*Secretary of State for the Colonies to the Administrator.*

6th October, 1886.

When may we expect answer to my despatch 195, "Rattler?"

(Sd.) SECRETARY OF STATE.

(Telegram.)

No. 136.

*Secretary of State for Colonies to Administrator.*

10th October, 1886.

When may we expect answer to my despatch Magdalen Islands?

(Sd.) SECRETARY OF STATE.

No. 137.

*Mr. Stanhope to the Administrator.*

DOWNING STREET, 12th October, 1886.

MY LORD,—I have the honour to transmit to you, for communication to Your Government, a copy of a letter with its enclosures from the Foreign Office, relative

to the case of the United States' fishing vessel "Crittenden," and I request that you will move your Ministers to furnish me with an immediate report on the subject.

I have, &c.,

(Sd.) EDWARD STANHOPE.

THE OFFICER ADMINISTERING  
The Government of Canada.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 6th October, 1886.

SIR,—I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington enclosing a copy of a note from the United States' Secretary of State calling attention to the case of the United States' fishing schooner "Crittenden," which it is alleged put into Steep Creek, in the Straits of Canso, for water, and was threatened with seizure in consequence, and I am to request that a report on the subject may be obtained from the Dominion Government as soon as possible.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

THE UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Sir L. S. West to the Earl of Iddesleigh.*

[Treaty No. 86.]

WASHINGTON, 24th September, 1886.

MY LORD,—I have the honour to enclose to Your Lordship herewith copy of a further note which I have received from the Secretary of State bringing to my attention the case of the American fishing schooner "Crittenden," which he alleges put into Steep Creek, in the Straits of Canso, for water, and which was threatened with seizure in consequence.

I have, &c.,

(Sd.) L. S. S. WEST.

THE EARL OF IDDESLEIGH,  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Sir L. West.*

WASHINGTON, 23rd September, 1886.

SIR,—I have the honour to bring to your attention an instance which has been brought to my knowledge of an alleged denial of one of the rights guaranteed by the Convention of 1818 in the case of an American fishing vessel.

Captain Joseph E. Graham, of the fishing schooner "A. R. Crittenden," of Gloucester, Mass., states under oath, that on or about the 21st of July last, on a return trip from the open sea fishing grounds to his home port, and while passing through the Straits of Canso, he stopped at Steep Creek for water. The Customs officer at that place told him that if he took in water his vessel would be seized; whereupon he sailed without obtaining the needed supply, and was obliged to put his men on short allowance of water during the passage homeward.

I have the honour to ask that Her Britannic Majesty's Government cause investigation to be made of the reported action of the Customs officer at Steep Creek, and, if the facts be as stated, that he be promptly rebuked for his unlawful and inhumane conduct in denying to a vessel of a friendly nation a general privilege which is not only held sacred under the maritime law of nations, but which is expressly confirmed to the fishermen of the United States throughout the Atlantic coasts of British North America by the 1st Article of the Convention of 1818.

It does not appear that the "A. R. Crittenden" suffered other damage by this alleged inhospitable treatment, but, reserving that point, the incident affords an illustration of the vexatious spirit in which the officers of the Dominion of Canada appear to seek to penalize and oppress those fishing vessels of the United States lawfully engaged in fishing which from any cause are brought within their reach.

I have, &c.,

(Sd.) T. F. BAYARD.

The Honourable

SIR L. WEST, K.C.M.G.,  
&c., &c., &c.,

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No 138.

*Mr. Stanhope to the Administrator.*

[No. 223.]

DOWNING STREET, 15th October, 1886.

MY LORD,—With reference to previous correspondence relative to the North American fisheries question, I have the honour to transmit to you for the information of your Government a copy of a letter with its enclosure from the Foreign Office on the subject.

I have, &c.,

(Sd.) EDWARD STANHOPE.

THE OFFICER ADMINISTERING  
The Government of Canada.

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[Enclosure No. 1.]

*Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 5th October, 1886.

SIR,—With reference to my letter of the 9th August last, I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington reporting that the United States' Senate Committee, for investigating the fisheries question, will leave shortly for Canada.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

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[Enclosure No. 2.]

*Sir L. Sackville West to the Earl of Iddesleigh.*

WASHINGTON, 19th September, 1886.

MY LORD,—With reference to Mr. Hardinge's despatch, No. 73 of this series, of the 26th of July last, I have the honor to inform Your Lordship that the Senate Committee, composed of Senators Edmunds, Frye, Saulsbury, Morgan and George, to investigate the Fisheries Question between Canada and the United States, will, it is said, leave shortly for the Dominion in order to prepare the report for the next Session of Congress, in December.

I am, &c.,

(Sd.) L. S. SACKVILLE WEST.

The EARL OF IDDESLEIGH,  
&c., &c., &c.

No. 139.

*The Administrator to Mr. Stanhope.*

[No. 66.]

HALIFAX, N.S., 27th October, 1886.

SIR,—I have the honour to transmit herewith a copy of an approved minute of the Privy Council of Canada, expressing the regret of my Government at the action of the Canadian cutter "Terror" in lowering the United States' flag from the United States' fishing schooner "Marion Grimes," of Gloucester, Mass., while that vessel was under detention at Shelburne, N.S., by the Collector of Customs at that port for the infraction of the Customs Regulations.

I have communicated a copy of this Order in Council to Her Majesty's Minister at Washington.

I have, &amp;c.,

(Sd.) A. RUSSELL.

The Right Honourable  
EDWARD STANHOPE.

[Enclosure No. 1.]

[No. 1927.]

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Administrator of the Government in Council on the 26th October, 1886.

On a report dated 14th October, 1886, from the Honourable Mackenzie Bowell, for the Minister of Marine and Fisheries, stating that on Monday 11th October inst., the United States fishing schooner "Marion Grimes" of Gloucester, Mass., was under detention at Shelburne, Nova Scotia, by the Collector of Customs at that port, for an infraction of the Customs Regulations, that while so detained and under the surveillance of the Canadian Government cutter "Terror," the captain of the "Marion Grimes" hoisted the United States' flag.

The Minister further states that it appears that Captain Quigley, of the "Terror," considered such act as an intimation that there was an intention to rescue the vessel, and requested Captain Landry to take the flag down. This request was complied with; an hour later, however, the flag was again hoisted, and on Captain Landry being asked if his vessel had been released, and replied that she had not. Captain Quigley again requested that the flag be lowered. This was refused, when Captain Quigley himself lowered the flag, acting under the belief that while the "Marion Grimes" was in possession of the Customs authorities, and until her case had been adjudicated upon, the vessel had no right to fly the United States' flag.

The Minister regrets that he should have acted with undue zeal although Captain Quigley may have been technically within his right while the vessel was in the custody of the law.

The Committee advise that Your Excellency be moved to forward a copy of this minute, if approved, to the Right Honourable the Secretary of State for the Colonies and to Her Majesty's Minister at Washington expressing the regret of the Canadian Government at the occurrence.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. MCGEE.  
Clerk, Privy Council, Canada.

No. 140.

*Sir L. West to the Administrator.*

[No. 22.]

WASHINGTON, 28th October, 1886.

MY LORD,—I have the honour to enclose to Your Lordship herewith copy of a note which I have received from the Secretary of State, together with copy of enclo-

sure asking for authentic information respecting the Canadian laws regulating the sale and exportation of fresh herring from Grand Manan Island.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency

GENERAL LORD ALEXANDER RUSSELL,  
&c., &c., &c.

[Enclosure No. 1.]

DEPARTMENT OF STATE,  
WASHINGTON, 27th October, 1886.

SIR,—I enclose copies of two letters received at this Department from Geo. Steele, President of the American Fishing Union, at Gloucester, Mass.

The object of these letters is to obtain authentic information of the administration of Canadian laws regulating the sale and exportation of fresh herring from Grand Manan Island and its vicinity, a trade which, the writer avers, has been carried on almost exclusively in American vessels for many years.

By the statements of the letter of Mr. Steele, dated 25th October, it appears that, although the vessels employed in this trade are duly registered in their home port as fishing vessels, yet that so far as the proposed trade is concerned, they are not manned nor equipped, nor in any way prepared for taking fish, but their use is confined to the carriage of fish as merchandise to ports in the United States—a commercial transaction *pur et simple*.

May I ask the favour of an early response to the enquiries propounded by Mr. Steele.

I have, &c.

(Sd.) T. F. BAYARD.

The Honourable

SIR L. S. S. WEST, K.C.M.G.,  
&c., &c., &c.

[Enclosure No. 2.]

OFFICE OF GLOUCESTER MUTUAL FISHING INSURANCE Co.,  
GLOUCESTER, MASS., 18th October, 1886.

SIR,—The season is approaching when American vessels have been accustomed to buy herring at the Grand Manan Island and vicinity and bring them to Boston, Gloucester, New York and Philadelphia.

The present position of the Dominion Government as to that trade concerns our interests greatly, and the fish trade desire to be informed whether that Government now considers the purchase of herring as open to American vessels either when registered or licensed with permit to trade.

We do not wish to explore their power of seizing or detaining these vessels or of inflicting fines, if they object to our vessels continuing in that business, we prefer to keep away from these shores until the Dominion Government is better advised.

I apply to you for this information which our merchants need, because I know of no other mode of obtaining it in a reliable shape.

I am, &c.,

(Sd.) GEO. STEELE,  
President American Fishery Union.

The Honourable

T. F. BAYARD.  
&c., &c., &c.

P.S.—This trade in winter herring has been carried on in our vessels almost exclusively for many years and fifty or a hundred cargoes come in usually during the fall, winter and spring.

They are largely consumed as food and to some extent used as bait in our winter fishing to Georges and the banks. It is very rare for a British vessel to bring herring to our ports.

[Enclosure No. 3.]

OFFICE OF GLOUCESTER MUTUAL FISHING INSURANCE Co.,  
GLOUCESTER, MASS., 25th October, 1886.

SIR,—I have the pleasure to acknowledge the receipt of your letter dated 20th October. My original enquiry referred both to vessels under license and to those sailing under a register. Your letter satisfies the enquiry as to those licensed for the fisheries.

We still desire to be informed as to whether vessels under registry of the United States will be allowed to enter at Grand Manan and other ports, and load and export herring to the United States. Such vessels will be manned by a sailing crew on wages, and not by a fishing complement of sharemen, nor will they carry the fishing gear which such vessels use, when fishing under a fishing license.

The fishing interests I assure you appreciate the courtesy of your offer to procure this information seasonably for them.

I remain, &c.,

(Sd.) GEO. STEELE,  
*President American Fishing Union.*

Honourable T. F. BAYARD,

(Telegram.)

No. 141.

*Administrator to the Secretary of State for Colonies.*

29th October, 1886.

“Rattler” report goes by to-morrow’s mail.

(Sd.) A. RUSSELL.

No. 142.

*The Administrator to Mr. Stanhope.*

[No. 71.]

HALIFAX, 29th October, 1886.

SIR,—I have the honour to forward herewith a copy of an approved minute of the Privy Council of Canada furnishing the report asked for in your despatch No. 195 of the 1st September last respecting the alleged unfriendly treatment of the United States’ fishing schooner “Rattler” in being required to report to the Collector of Customs, at Shelburne, N.S., when seeking that harbour for shelter.

I beg also to draw your attention to the statement of the Captain of the “Terror,” appended to the above Order in Council, which gives the facts concerning the cases of the “Shiloh” and “Julia Ellen” a report as to which was requested in your despatch No. 203 of the 9th ultimo.

I have, &c.,

(Sd.) A. RUSSELL.

The Right Honourable  
EDWARD STANHOPE,  
&c., &c., &c.

402g.

[Enclosure No. 1.]

*CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Administrator of the Government in Council on the 28th October, 1886.*

The Committee of the Privy Council have had their attention called by a cablegram from the Right Honourable Mr. Stanhope, as to when he may expect answer to despatch No. 195 “Rattler.”

The Honourable Mr. Bowell, for the Minister of Marine and Fisheries, to whom the papers were referred, submits for the information of His Excellency in Council that having considered the statements, copies of which are annexed, of Captain Quigley of the Govern

ment cutter "Terror" and of the Collector of Customs at Shelburne with reference to the subject matter of the despatch, he is of opinion that these officers only performed their respective duties in the case of the "Rattler," and that no just ground exists for the complaint put forward in Mr. Bayard's despatch of a "violation of that hospitality which all civilized nations prescribe," or of a "gross infraction of Treaty stipulations."

The Minister states that it does not appear at all certain from the statements submitted that this vessel put into Shelburne for a harbour in consequence of stress of weather. It does, however, appear that immediately upon the "Rattler's" coming into port, Captain Quigley sent his Chief Officer to inform the Captain of the "Rattler" that before sailing he must report his vessel at the Custom House, and left on board the "Rattler" a guard of two men to see that no supplies were landed or taken on board or men allowed to leave the vessel during her stay in Shelburne Harbour. That at midnight the guard fired a shot as signal to the cruiser, and the First Officer at once again proceeded to the "Rattler," and found the sails being hoisted and the anchor weighed preparatory to leaving port. The Captain being informed he must comply with the Customs regulations and report his vessel, he headed her up the harbour. That on the way up she became becalmed when the First Officer of the "Terror" took the Captain of the "Rattler" in his boat and rowed him to the town, when the Collector of Customs received his report at the unusual hour of 6 a.m., rather than detain him, and the Captain with his vessel proceeded to sea.

The Minister observes that under Section 25 of the Customs Act every vessel entering a port in Canada is required to immediately report at the Customs, and the strict enforcement of this regulation as regards United States' fishing vessels, has become a necessity, in view of the illegal trade transactions carried on by United States' fishing vessels when entering Canadian ports under pretext of their Treaty privileges.

That under these circumstances a compliance with the Customs Act, involving only the report of a vessel, cannot be held to be a hardship or an unfriendly proceeding.

The Minister, in view of the repeated groundless complaints of being harshly treated that have been made during the present season by the captains of United States' fishing vessels, and in almost every instance traceable to a refusal or neglect to observe the Customs regulations which it is proper to state are enforced upon other vessels as well as those of the United States, submits herewith, a letter written by Captain Blake of the United States' fishing schooner "Andrew Burnham," which appear in the Boston (Mass.) *Herald*, of the 7th instant, and also the editorial comment thereon, made in a subsequent issue of the paper referred to.

The Minister believes that the statements made by Captain Blake are strictly accurate, and as applied to other vessels are substantiated by the weekly boarding reports received by the Fisheries Department from the different captains engaged in the Fisheries Protection Service. He, the Minister, therefore, respectfully submits that the reflections of Mr. Secretary Bayard characterising the treatment extended to the captain of the "Rattler" as unwarrantable and unfriendly is not merited in view of the facts as stated by Captain Quigley and Collector Atwood.

The Committee concur in the report of the Acting Minister of Marine and Fisheries, and advise that Your Excellency be moved to transmit a copy of this Minute, if approved, to the Right Honourable Her Majesty's Principal Secretary of State for the Colonies.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. MCGEE,  
Clerk, Privy Council, Canada.

[Enclosure No 2.]

### CAPTAIN BLAKE'S LETTER.

#### A FISHERMAN'S TALE.

*What a Boston Skipper says of His Experience in Canadian Waters.*

The following letter which appears in the Boston *Herald* conveys a different impression to many statements that have appeared on the subject:—

So much has been written and printed about the experiences of American fishermen in Canadian waters, and the indignities put on them, I wish you would open your columns and

give your readers an insight into the other side of the story. I sailed from Boston for North Bay on June 16, not knowing just what the cutters would do or how the law would be interpreted. I neared the coast with fear and anxiety. The first land sighted was Whitehead, and immediately cries came from aloft: "Cutter in sight ahead!" I rushed to the deck, found the vessel which proved to be the "Houlett," commanded by Capt. Lorway, nearing us rapidly. At time of sighting the cutter we were standing inshore. She hoisted her flags to let us know what she was, and we immediately "about ship" and put to sea to get out of her way, for fear we might be placed on the prize list of the captures. We finally headed up for Port Mulgrave in Canso, expecting to receive rough usage from the authorities, but to our surprise found Collector Murray a perfect gentleman, willing to assist me as far as he could without encroaching on the Canadian laws. From there we put in at Port Hawkesbury and boarded the cutter "Conrad," and asked the captain for instructions in regard to the three-mile limit, and what privileges, if any, we had. I was answered, in a courteous and hearty way, that he did not have them aboard, but would go ashore in a few moments and get me a printed copy of the regulations, which he did, and assured us that if we followed them we would be unmolested; that he was there to see that the law was not violated, but not to cause unnecessary annoyance. After receiving instructions from the Captain, thanks to him, I went to the Custom House and entered my vessel, paying twenty-five cents. I found a very pleasant gentleman in the collector, who did all in his power to relieve my mind and make us comfortable.

Souris was our next port of landing, where we also reported, and were well treated. From there we went to Malpeque, where we found another gentleman in the collector. We met the cutter "Houlett" at Cascumpec, and had several interviews with her commander, Captain Lorway, whom I found a quiet, just and gentlemanly officer. My vessel was one of the fleet ordered out of harbour by him. At that time it was as good a fish day as one could ask for, and the instructions were plain that at such times we had no right to remain in harbour. At no time is there much water to spare on the bar, and it is a common occurrence for vessels to ground in going in or out, and that some did touch was due to ignorance of the channel or carelessness on the part of captains. At the time the order was issued the weather was fair, but before all the fleet could work out through the channel, one of the sudden changes in weather, so much to be dreaded on such a coast, came, and the cutter rescinded the order and the fleet returned. It has been printed in a Boston paper that, owing to being forced to sea by the cutter's orders in bad weather, my schooner, the "Andrew Burnham," fouled two Englishmen and narrowly escaped serious damage. If true it would look like a hardship. It was simply this: In getting under way, in a small and crowded space, finding I would not have room, I dropped our starboard anchor. That not holding, we let go the other, and it brought us up all right; not much in this to point to as an outrage or danger from stress of weather. I believe Captain Lorway to be a man who would carry out all the requirements of the Canadian laws, but I saw nothing in my experience in those waters that could be considered as being arbitrary, or taking a mean advantage of his official authority to annoy anyone. Captain Lorway has been a master of vessels for twenty-five years, is a man of high reputation as a seaman, and as good a judge of whether the weather is favourable for a vessel to go to sea as any man who walks a deck, and when he ordered the fleet to sea he went himself, and I know he would not order a vessel to leave harbour if there was any danger of loss of life or property. We reported at Cascumpec, and were treated the same as at all other ports we touched at. If our vessels would attend to reporting at the Custom House, the same as they do in our ports, no trouble would be met with.

If we had "free fish" it would give the Canadians some recompense for what our fishermen want, viz., the right to go anywhere and everywhere, use their harbours, ship men, get provisions, land and mend our nets, buy salt and barrels, and ship our catch home by rail or steamer without expense or annoyance, the same as we have heretofore.

If we had had that privilege this year, myself and vessel would have been \$5,000 better off this season, and all the fishermen in the bay would have been in the same boat with me. I do not say that I am too honest not to fish within the three-mile limit, nor do I believe there is a vessel in the fleet who would not, if the cutter was out of sight. I made two trips to the bay, both of which were very successful, and I lived up to the requirements of the law as well as I knew how, and did not find them obnoxious, or to interfere with my success, and everywhere I went I was courteously treated by the officials—especially so by both the cutters. Should it be a bay year next season, I hope to meet them again. Those who openly preached that they would go where they pleased, do what they wanted to in spite of law or cutters, shipped men, smuggled or openly fished inside of the limit, and indulged in the satisfaction of damning the cutter, the captain, the Government and everything else when they knew they could do it with impunity, and that the men they were talking to could not resent it by word or blow, were looked after sharp and were not extended the courtesy that was shown so many of us.

In the interest of fair-play I could not help writing you and asking you to give this to your readers, if not taking up too much of your valuable space.

Very respectfully,

CAPT. NATHAN F. BLAKE,  
*Schooner "Andrew Burnham" of Boston.*

Boston, 6th October, 1886.

[Enclosure No. 3.]

*Extract from the Boston Herald, dated the 9th October, 1886.*

#### A FISHING CAPTAIN'S EXPERIENCE.

The letter of Captain Nathan F. Blake, of the fishing schooner "Andrew Burnham" of this city, which we published on Wednesday, would apparently indicate that the Canadian officials have not been disposed to push the requirements of their law quite as rigorously as some of our fishermen have maintained. Captain Blake says that he has experienced not the least trouble in his intercourse with the Canadian officials, but that, as he has treated them courteously, they on their side have reciprocated in like terms. There is, undoubtedly, a great deal of bitterness felt on both sides, and probably this bitterness has led both parties to be ungracious in their own conduct, and to exaggerate the wrongs they have endured, hardships frequently due to an unwillingness to observe the requirements of the law as these are now laid down. If all American fishing captains exhibited the same courtesy and moderation that Captain Blake has shown, we imagine that there would be very little trouble in arriving at an equitable and pleasing understanding with Canada.

[Enclosure No. 4.]

SHELburnE, 30th September, 1886.

SIR,—I beg to acknowledge the receipt of your letter of the 27th instant, requesting the circumstances connected with the boarding of the vessels "Rattler," "Julia and Ellen," and "Shilo."

In the case of the "Rattler," she came into Shelburne harbour on the evening of the 4th of August, at 6 o'clock. She being at some distance from where I was anchored, and it being too rough to send my boat so far, I fired a musket signal for her to round to, which she did and came to an anchor alongside of my vessel.

I then sent the chief officer to board her. He reported she put in for shelter. The captain was then told by the chief officer to report his vessel before he sailed, and that he must not let his men on shore, and that he would leave two men, who are always armed, on board to see that he did not otherwise break the law.

About midnight the captain hoisted his sails to leave port, thereby evading the Customs law requiring him to report (for which I refer you to Section 25 of the Customs Act) and disregarding my instructions.

The watchmen fired a signal calling my attention to this act, when I sent the chief officer to tell the captain he must lower his sails and report his vessel in the morning, otherwise he would likely have his vessel detained.

He did so, and sailed up in company with the chief officer at 4 o'clock a.m. On the way up it fell calm and the vessel anchored. The chief officer with my boat's crew, rowed him up to the Custom House, where he reported at 6 a.m., and returned, passing out to sea at 8 a.m. The captain was only asked to report his vessel as all others do, but was not disposed to do so.

In the case of the "Julia and Ellen," she came into the harbour of Liverpool on the 9th of August, about 5 p.m. Being some distance from me I fired a blank musket shot to round her to. When she anchored, I boarded her and the captain reported that he came in for water. I told him to report his vessel in the morning as it was then after Customs' hours, and that he must not let his men ashore, and that I would leave two men on his vessel to see that my instructions were carried out, and to see that he did not otherwise break the law.

In the morning at 8 o'clock, I called for the captain to go to the Custom House and told him his men could go on and take water while he was reporting, so that he would be all ready to sail when he returned, which they did, and he sailed at noon.

In the case of the "Shilo," she came into the harbour about 6 p.m., on the 9th of August, at Liverpool, and a signal was fired in her case the same as the others.

When she anchored I boarded her, and the captain reported he was in for water. I told him it was then too late to report at the Customs till morning, and that he must not allow his crew on shore, also that I would leave two men on board to see that he did not otherwise break the law and that my instructions were carried out.

In the morning I called for the captain when taking the "Julia and Ellen's" captain ashore. When there I told him, as I did the other, that his men could go on taking water while he was reporting, so that he could sail when he returned and not be delayed. This they did not do.

I have reason to know that it was not water this vessel came in for, as several of the crew lived there, and it was for the purpose of letting his men ashore and not for taking water that he put in. He afterwards emptied six barrels of water, stating they were sour, and fooled all day filling them, delaying the time that he might get his crew on shore. I refused to allow his crew on shore for any other purpose than to take water, after completing which, the weather being fine, I ordered him to sea in the evening.

The signals that were fired were not intended to make them come to quickly, but as a signal for them to either round to or show their ensign.

After the "Shilo" sailed, the harbour master informed me that she landed two men at the mouth of the harbour, seven miles down, before she reported, and the evening she sailed she called after dark and picked them up.

In many cases it is an understood thing between the captains and crews to let the men ashore and then make out they deserted. In all cases where a vessel puts in for shelter, the captain reports, and the rest of his crew are not allowed ashore, as the vessel only put in for the privilege of shelter, and for no other purpose.

When she puts in for water, after reporting, the captain is allowed to take his boats and the men he requires to procure water, and the rest remain on board, after which he is ordered to sea. When in for repairs, he is allowed all the privileges he requires after reporting, and when ready is ordered to sea. In all cases, except when in for repairs, I place men on board to see that the law is not violated, as many of those vessels put into the harbour and make taking water and seeking shelter an excuse either to get men or land them, or to allow them a chance to see their friends, or to get goods ashore if the vessel is on her way from American ports to the fishing grounds, and have landed men here and at other ports on this coast in my absence. In one case in this port a vessel, finding I was in the harbour, let men take a boat and land, she going on her way home to the States. That is why I put men on these vessels, to keep them from breaking the law under cover of night.

I might remark here that the Collector of Customs at Liverpool informed me that the "Shilo" on her previous voyage remained in port five days after being ordered out, delaying for the purpose of letting the men be with their friends.

Now that they are not allowed all the privileges they once enjoyed it is an outrage on my part.

These are the facts connected with those vessels, which I reported to Captain Scott while in Halifax sometime ago.

I treat all courteously but firmly, and find no trouble with any but a few who wish to evade the law.

I am, Sir,

(Sd.)

THOMAS QUIGLEY,  
Government Cruiser "Terror."

Major JOHN TILTON,  
Deputy Minister of Fisheries,  
Ottawa.

[ENCLOSURE No. 5.]

CUSTOMS HOUSE, SHELBURNE, 6th September, 1886.

SIR,—I have to acknowledge receipt of your telegram of 4th inst. relative to schooner "Rattler" and I wired an answer this morning as requested.

On the morning of 4th ulto., Chief Officer of "Terror" accompanied by Captain A. F. Cunningham called at this office. Captain Cunningham reported his vessel inwards as follows:—viz.: "schooner 'Rattler' of Gloucester, 93 tons register, 16 men, from fishing banks with 465 barrels mackerel; came in for shelter."

I was afterwards informed by the officer of cutter that they found the schooner the evening before at anchor off Sandy Point, five miles down the harbour. Two men from cutter were put on board, and the master required to report at Customs in the morning.

I was also informed that the master, Captain Cunningham, made an attempt to put to sea in the night, by hoisting sails, weighing anchor, &c., but was stopped by officers from cutter.

I am, Sir,

(Sd.)

W. H. ATWOOD, *Collector.*

To Commissioner of Customs,  
Ottawa.

No. 143.

*The Administrator to Mr. Stanhope.*

HALIFAX, 30th October, 1886.

SIR,—With reference to your telegraphic message of the 22nd August, and to your despatch of the 25th August, transmitting a copy of a despatch from Her Majesty's Charge d'Affairs at Washington, with a note from Mr. Bayard, complaining of the action of the Customs Officer at Magdalen Islands with reference to the American fishing schooner "Mascotte." I have the honour to forward herewith a copy of an approved Minute of the Privy Council of Canada, embodying a report of the Minister of Marine and Fisheries on the subject.

I have, &c.,

(Sd.)

A. RUSSELL.

The Right Honourable

EDWARD STANHOPE.

&c., &c., &c.

No. 361g.

[Enclosure No. 1.]

*CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council of Canada, approved by His Excellency the Administrator of the Government in Council on the 30th October, 1886.*

The Committee of the Privy Council have had under consideration a telegram of the 22nd August and a despatch of the 25th August last from the Right Honourable the Secretary of State for the Colonies, transmitting copy of a letter from Her Majesty's Minister at Washington, enclosing a note from Mr. Secretary Bayard, complaining of the action of the Customs Officer at Magdalen Islands with reference to the American fishing schooner "Mascotte."

The Minister of Marine and Fisheries, to whom the correspondence was referred, observes that Mr. Bayard, in his note to the British Minister at Washington, says:—

"I am also in possession of the affidavit of Alex. T. Vachem, master of the American fishing schooner 'Mascotte' who entered Port Amherst, Magdalen Islands, and was there threatened by the Customs Official with seizure of his vessel if he attempted to obtain bait for fishing or take a pilot." And from a report of the Customs Officer at Magdalen Islands, a copy of which, so far as it relates to the case in point, is hereto annexed, it appears that no grounds exist for the complaint made by the master of the "Mascotte."

The Minister states that Captain Vachem was served with a printed copy of the "warning," and was in addition informed by the Collector that under the Treaty of 1818 he had no right to buy bait or to ship men. He was not forbidden to take fish, but on the contrary the Collector pointed out to him on the chart the places in which by the Convention of 1818, he as a United States' fisherman, had the right to inshore fishing, and one of the places so pointed out to him was the Magdalen Islands.

Notwithstanding the "warning" and the personal explanation of the Collector it appears that Captain Vachem did go up the country and attempt to hire men and upon his return informed the Collector that he could not get any. For this, clearly an illegal Act, he was not interfered with by the Collector.

The Minister further observes that the Convention of 1818, while it grants to United States' fishermen the right of fishing in common with British subjects on the shores of the Magdalen Islands, does not confer upon them privileges of trading or of shipping men, and it was against possible acts of the latter kind and not against fishing inshore, or seeking the rights of hospitality guaranteed under the Treaty, that Captain Vachem was warned by the Collector.

With reference to the remark of the Colonial Secretary that "Her Majesty's Government would recommend that special instructions should be issued to the authorities at the places where the inshore fishery has been granted by the Convention of 1818 to the United States' fishermen, calling their attention to the provisions of that Convention and warning them that no action contrary thereto may be taken in regard to United States' fishing vessels," the Minister states that the circular instructions issued to Collectors of Customs, recite the articles of the Convention of 1818 which grant to United States' fishermen the right to take fish upon the shores of the Magdalen Islands and of certain parts of the Coast of Labrador and Newfoundland, which instructions the Collector in question had received and the import of which his report shows him to be familiar with.

In addition to this the Commander of the Fishery Protection steamer "La Canadienne" was ordered to visit Magdalen Islands and explain fully to Collectors there, the extent of their powers.

The Minister in view of these instructions, printed and oral, does not deem it necessary to send further special orders.

The Committee concurring in the foregoing report, advise that Your Excellency be moved to transmit a copy hereof, if approved, to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for Your Excellency's approval.

(Sd.)

JOHN J. MCGEE,  
Clerk, Privy Council, Canada..

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[Enclosure No. 2.]

CUSTOM HOUSE,  
MAGDALEN ISLANDS, 28th August, 1886.

SIR,—I beg to acknowledge the receipt of your telegram respecting captain of the schooner "Mascotte's" report in reference to my having threatened him with seizure.

I replied on receipt: "Mascotte's" information incorrect. Particulars per mail Tuesday."

*Particulars.*

On the arrival of the captain I served him with a "warning;" personally informed him he could not buy bait or ship men.

I say this to all American fishermen. He tried, however, to hire, went up the country to hire, but could not hire a man.

I saw him and men go up and on his return he told me he could not hire. I did not oppose him. He intended halibutting at Seven Islands, Dominion. I found this out since. I deny having said I would seize him if he obtained bait, himself or crew. I did not use the term but it suits the captain or owners to use it as it serves their meaning to make the report good.

I particularly showed him where, on the chart, he had the right to fish inshore, to wit: At the Magdalen Islands, Cape Ray, &c., as per Treaty in my hands then.

I think I was very lenient with him and all American fishermen calling here, knowing their privileges.

I treated him so gentlemanly that I am surprised to hear he made the above inaccurate report to you.

Your obedient servant,

(Sd.)

J. B. F. PAINCHAUD.

Collector Customs.

The Commissioner of Customs,  
Ottawa.

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(Telegram).

No. 144.

*Secretary of State to Lord Lansdowne.*

2nd November, 1886.

Please send properly authenticated copy of the Fishery Bill as soon as possible.

(Sd.) E. STANHOPE.

No. 145.

*Mr. Stanhope to the Governor General.*

DOWNING STREET, 4th November, 1886.

MY LORD,—I have the honour to acknowledge the receipt of your despatch, No. 238, of the 29th of July last, enclosing a copy of an approved report of your Privy Council, in reference to the Bill recently passed by the Parliament of Canada, and reserved by you for the signification of Her Majesty's pleasure, entitled "An Act further to amend the Act respecting Fishing by Foreign Vessels."

Her Majesty's Government, after having given their most attentive consideration to the question and to the views which have been urged by your Ministers, and having, moreover, had the advantage of considering the representations which you have yourself made upon the subject during your recent visit to this country, have come to the conclusion that they would not be justified in advising Her Majesty to withhold her assent from the Bill in question.

They will, therefore, be prepared to submit the Bill to Her Majesty for confirmation on receiving a transcript of it, properly authenticated in the usual form.

I have, &amp;c.,

(Sd.) EDWARD STANHOPE.

Governor General,

The Most Honourable,

THE MARQUIS OF LANSDOWNE, G.C.M.G.,  
&c., &c., &c.

(Telegram.)

No. 146.

*Secretary of State for the Colonies to the Administrator.*

6th November, 1886.

United States' Government protest against proceedings of Canadian authorities in case of "Pearl Nelson" and "Everitt Steele," said to have put into Arichat and Shelburne respectively, for purposes sanctioned by Convention. Particulars by post. Send report as soon as possible.

(Sd.) SECRETARY OF STATE.

No. 147.

*Lord Lansdowne to Mr. Stanhope.*

OTTAWA, 9th November, 1886.

SIR,—With reference to Earl Granville's despatch of the 24th June last respecting the fisheries question, and enclosing copies of two letters from the Foreign Office

and one from the United States' Minister in London, addressed to the Secretary of State for Foreign Affairs, I have the honour to transmit herewith a copy of an approved minute of the Privy Council of Canada concurring in a report of the Minister of Justice dealing with the points raised by Mr. Phelps in his note of the 2nd June last on the subject of the seizure of the United States' fishing vessel "David J. Adams" near Digby, Nova Scotia.

I have, &c.,

(Signed) LANSDOWNE.

The Right Honourable  
EDWARD STANHOPE,  
&c., &c., &c.

[No. 273g.]

[Enclosure No. 1.]

*CERTIFIED copy of a Report of Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Administrator of the Government in Council on the 2nd November, 1886.*

The Committee of the Privy Council have had under consideration a despatch, dated 24th June, 1886, from the Right Honourable the Secretary of State for the Colonies, respecting the Fisheries Question, and enclosing copies of letters on the subject from the Foreign Office to the Colonial Office, and of one from Mr. Phelps to the Secretary of State for Foreign Affairs.

The Minister of Justice to whom the despatch and enclosures were referred, submits a report thereon, herewith.

The Committee concur in the said report and advise that Your Excellency be moved to transmit a copy thereof, if approved to the Right Honourable the Secretary of State for the Colonies.

All which is submitted for Your Excellency's approval.

(Sd.) JOHN J. MCGEE,  
Clerk, Privy Council, Canada.

[Enclosure No. 2.]

*To His Excellency the Administrator of the Government in Council.*

DEPARTMENT OF JUSTICE, OTTAWA, 22nd July, 1886.

With reference to the despatch of the 24th June last, from the Secretary of State for the Colonies to Your Excellency respecting the fisheries question, and enclosing copies of letters on the subject from the Foreign Office to the Colonial Office, and of one from Mr. Phelps to the Secretary of State for Foreign Affairs, the undersigned has the honour to report as follows:—

The letter of Mr. Phelps seems designed to present to Earl Rosebery the case of the "David J. Adams," the fishing vessel seized a short time ago near Digby, in the Province of Nova Scotia.

Mr. Phelps intimates that he has received from his Government a copy of the report of the Consul General of the United States at Halifax, giving full details and depositions relating to the seizure, and that that report, and the evidence annexed to it, appear fully to sustain the points which he had submitted to Earl Rosebery at an interview which he had had a short time before the date of his letter.

The report of the Consul General and the depositions referred to seem not to have been presented to Earl Rosebery, and their contents can only be inferred from the statements made in Mr. Phelps' letter.

These statements appear to be based on the assertions made by the persons interested in the vessel by way of defence against the complaint under which she was seized, but cannot be regarded as presenting a full or accurate representation of the case. The undersigned submits the facts in regard to this vessel, as they are alleged by those on whose testimony the Government of Canada can rely to sustain the seizure and detention.

*The Offence as to the Treaty and Fishery Laws.*

The "David J. Adams" was a United States' fishing vessel, whether, as alleged in her behalf, her occupation was deep sea fishing or not, and whether, as suggested, she had not been engaged, nor was intended to be engaged, in fishing in any limit proscribed by the Treaty of 1818 or not, are questions which do not, in the opinion of the undersigned, affect the validity of the seizure and of the proceedings subsequent thereto, for reasons which will be hereafter stated; but in so far as they may be deemed material to the defence, they are questions of fact which remain to be proved in the Vice-Admiralty Court of Halifax, in which the proceedings for the vessel's condemnation are pending, and in respect of which proof is now being taken, and inasmuch as the trial has not been concluded (much less a decision reached) it is perhaps premature for Mr. Phelps to claim the restoration of the vessel, and to assert a right to damages for her detention, on the assumption of the supposed facts above referred to.

It is alleged in the evidence on behalf of the prosecution that the "David J. Adams" being a United States' fishing vessel, on the morning of the 5th of May, 1886, was in what is called the "Annapolis Basin," which is a harbour on the north-west coast of Nova Scotia. She was several miles within the basin, and the excuse suggested (that the captain and crew may have been there through a misapprehension as to the locality) by the words of Mr. Phelps' letter, "Digby is a small fishing settlement and its harbour not defined," is unworthy of much consideration.

Digby is not a fishing settlement, although some of the people on the neighbouring shores engage in fishing. It is a town, with a population of about two thousand persons. Its harbour is formed by the Annapolis Basin, which is a large inlet of the Bay of Fundy, and the entrance to it consists of a narrow strait marked by conspicuous headlands which are little more than a mile apart. The entrance is called "Digby Gut" and for all purposes connected with this enquiry, the harbour is one of the best defined in America.

The "David J. Adams" was, on the morning of the 5th day of May, 1886, as has already been stated, several miles within the Gut. She was not there for the purpose of "shelter" or "repairs" nor "to purchase wood" nor "to obtain water." She remained there during the 5th and on the 6th May, 1886, she was lying at anchor about half a mile from the shore, at a locality called "Clements West."

On the morning of the 6th of May, 1886, the Captain made application to the owners of a fishing weir, near where he was laying for bait, and purchased four and a-half barrels of that article.

He also purchased and took on board, about two tons of ice. While waiting at anchor for these purposes the name of the vessel's "hailing place" was kept covered by canvas, and this concealment continued while she afterwards sailed down past Digby. One of the crew represented to the persons attending the weir that the vessel belonged to the neighbouring Province of New Brunswick. The Captain told the owner of the weir, when the Treaty was spoken of by the latter, that the vessel was under British register. The Captain said he would wait until the next morning to get more bait from the catch in the weir which was expected that day. At daybreak, however, on the morning of the 7th of May, 1886, the Government steamer "Lansdowne" arrived off Digby, and the "David J. Adams" got under way without waiting to take in the additional supply of bait, and sailed down the Basin towards the Gut.

Before she had passed Digby she was boarded by the First Officer of the "Lansdowne" and to him the Captain made the following statement: That he had come to that place to see his people, as he had formerly belonged there, that he had no fresh bait on board, and that he was from the "Banks" and bound for Eastport, Maine.

The officer of the "Lansdowne" told him he had no business there, and asked him if he knew the law. His reply was "Yes."

A few hours afterwards, and while the "David J. Adams," was still inside the Gut, the officer of the "Lansdowne," ascertaining that the statements of the Captain were untrue, and that bait had been purchased by him within the harbour on the previous day, returned to the "David J. Adams," charged the Captain with the offence, and received for his reply the assertion that the charge was false, and that the person who gave the information was a "liar."

The officer looked into the hold of the vessel and found the herring which had been purchased the day before, and which, of course, was perfectly fresh, but the Captain declared that this "bait" was ten days old.

The officer of the "Lansdowne" returned to his ship, reported the facts, and went again to the "Adams," accompanied by another officer, who also looked at the bait. Both returned to the "Lansdowne" and then conveyed to the "Adams" the direction that she should come to Digby and anchor near the "Lansdowne." This was, in fact, the seizure.

These are the circumstances by which the seizure was, in the opinion of Mr. Phelps, "much aggravated," and which makes it seem very apparent to him that the seizure "was not made for the purpose of enforcing any right, or redressing any wrong."

The fact that the seizure was preceded by visitations and searches was due to the statements of the master, and the reluctance of the officers of the "Lansdowne" to enforce the law until they had ascertained to a demonstration that the offence had been committed, and that the Captain's statements were untrue.

### *The Offence as to Customs' Laws.*

The "David J. Adams," as already stated, was in the harbour upwards of forty eight hours, and, when seized, was proceeding to sea, without having been reported at any Customs House. Her business was not such as to make it her interest to attract the attention of the Canadian authorities, and it is not difficult, therefore, to conjecture the reason why she was not so reported, or to see that the reason put forward that Digby is but a small fishing settlement and its harbours not defined," is a disingenuous one. In going to the weir to purchase bait, the vessel passed the Customs House at Digby, almost within hailing distance. When at the weir, she was within one or two miles of another Customs House (at Clementsport), and within about fifteen miles of another (at Annapolis). The master has not asserted that he did not know the law on this subject, as it is established that he knew the law in relation to the restriction on foreign fishing vessels.

The provisions of the Customs Act of Canada on this subject are not essentially different from those of his own country. The captain and crew were ashore during the 5th and 6th of May, 1886. The following provisions of the Customs Act of Canada apply:—

"The master of every vessel coming from any port or place out of Canada, or coastwise, and entering any port in Canada, whether laden or in ballast, shall go without delay, when such vessels is anchored or moored, to the Custom House for the port or place of entry where he arrives, and there make a report in writing to the collector or other proper officer, of the arrival and voyage of such vessel, stating her name, country and tonnage, the port of registry, the name of the master, the country of the owners, the number and the names of the passengers, if any, the number of the crew, and whether the vessel is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods, if any, have been laden or unladen, or bulk has been broken, during the voyage, what part of the cargo, and the number and names of the passengers which are intended to be landed at that port, and what and whom at any other port in Canada, and what part of the cargo, if any, is intended to be exported in the same vessel, and what surplus stores remain on board, as far as any of such particulars are or can be known to him."—46 V., c. 12, s. 25.

"The master shall at the time of making his report, if required by the officer of Customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall make and subscribe an affidavit referring to his report, and declaring that all the statements made in the report are true, and shall further answer all such questions concerning the vessel and cargo, and the crew and the voyage, as are demanded of him by such officer, and shall, if required, make the substance of any such answer part of his report."—46 V., c. 12, s. 28.

"If any goods are unladen from any vessel before such report is made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, as provided in the next preceding section, he shall incur a penalty of four hundred dollars, and the vessel may be detained until such penalty is paid."—46 V., c. 12, s. 29.

### *Proceedings Following the Seizure.*

These have been made the subject of a complaint by Mr. Phelps, although the explanations which were given in the previous memorandum of the undersigned (in reference to the letters of Mr. Bayard to Her Majesty's Minister at Washington) and in the report, on the same subject, of the Minister of Marine and Fisheries, laid before His Excellency the Governor General on the 14th June, ultimo, coupled with a disavowal by the Canadian Government of any intention that the proceedings in such cases should be unnecessarily harsh or pursued in a punitive spirit, might have been expected to be sufficient. After the seizure was made, the commander of the "Lansdowne" took the "David J. Adams" across the Bay of Fundy to Saint John, a distance of about forty miles. He appears to have had the impression that, as his duties would not permit him to remain at Digby, the vessel would not be secure from rescue, which has in several cases occurred after the seizure of fishing vessels. He believed she would be more secure in the harbour of Saint John, and that the legal proceedings, which in due course would follow, could be taken there. He was

immediately directed, however, to return with the vessel to Digby, as it seemed more in order, and more in compliance with the statutes relating to the subject, that she should be detained in the place of seizure, and that the legal proceedings should be taken in the Vice-Admiralty Court of the Province where the offence was committed. It does not seem to be claimed by the United States' authorities that any damage to the vessel, or that any injury or inconvenience to any one concerned was occasioned by this removal to Saint John, and by her return to Digby, occupying as they did but a few hours, and yet this circumstance seems to be relied on as aggravating "the seizure," and as depriving it of the character of a seizure made "to enforce a right or to redress a wrong."

Another ground of complaint is that in Digby "the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such a manner as to prevent its contents being read, and the request of the captain and of the United States' Consul General to be allowed to detach the writ from the mast, for the purpose of learning its contents, was positively refused by the Provincial official in charge; that the United States' Consul General was not able to learn from the commander of the 'Lansdowne' the nature of the complaint against the vessel, and that his respectful application to that effect was fruitless."

1. As to the position of the paper on the mast. It is not a fact that it was nailed to the vessel's mast "in such a manner as to prevent its contents being read." It was nailed there for the purpose of being read, and could have been read.

2. As to the refusal to allow it to be detached. Such refusal was not intended as a discourtesy, but was legitimate and proper. The paper purported to be, and was, a copy of the writ of summons and warrant which were then in the Registry of the Vice-Admiralty Court at Halifax. It was attached to the mast by the Officer of the Court, in accordance with the rules and procedure of that Court. The purposes for which it was so attached did not admit of any consent for its removal.

3. As to the desire of the Captain and of the United States' Consul General to ascertain the contents of the paper. The original was in the Registry of the Court, accessible to every person, and the Registry is within eighty yards of the Consul General's Office. All the reasons for the seizure were made known to the Captain days before the paper arrived to be placed on the mast, and before the Consul General arrived at Digby. These reasons were not only matters of public notoriety, but had been published in the newspapers of the Province, and in hundreds of other newspapers circulating throughout Canada and the United States. The Captain and the Consul General did not need, therefore, to take the paper from the mast in order to learn the causes of the seizure and detention.

4. As to the application of the Consul General having been fruitless. The fact has transpired that he had reported the seizure and its causes to his Government before the application was made. It has been already explained in the previous memorandum of the undersigned, and in the report of the Minister of Marine and Fisheries, that the application was for a specific statement of the charges, and that it was made to an officer who had neither the legal acquirements nor the authority to state them in a more specific form than that in which he had already stated them. The Commander of the "Lansdowne" requested the Consul General to make his request to the Minister of Marine and Fisheries, and if he had done so the specific statement which he desired could have been furnished in an hour.

It is hoped that the explanation already made, and the precautions which have been taken against even the appearance of discourtesy in the future, will, on consideration, be found to be satisfactory.

#### *Incidents of the Customs Seizure.*

Mr. Phelps presents the following views with respect to the claim that the "David J. Adams" besides violating the Treaty and the statutes relating to "fishing by foreign vessels," is liable to be detained for the penalty under the Customs Laws.

1. That this claim indicates the consciousness that the vessel could not be forfeited for the offence against the Treaty and Fishery Laws. This supposition is groundless. It is by no means uncommon, in legal proceedings, both in Canada and the United States, for such proceedings to be based on more than one charge, although any one of the charges would, in itself, if sustained, be sufficient for the purpose of the complainant. The success of this litigation, like that of all litigation, must depend not merely on the rights of the parties but on the proof which may be adduced as to a right having been infringed. In this instance it appears, from Mr. Phelps' letter, that the facts which are to be made the subject of proof are widely in dispute, and the Government of Canada could, with propriety, assert both its claims so that both of them should not be lost by any miscarriage of justice in regard to one of them. This was, likewise, the proper course to be taken in view of the fact that an appeal might, at any time, be made to the Government by the owners of the "David J. Adams" for remission

of the forfeiture incurred in respect of the Fishery Laws. The following is a section of the Canadian Statute relating to fishing by foreign vessels:—

"In cases of seizure under this Act the Governor in Council may direct a stay of proceedings, and in cases of condemnation, may relieve from the penalty, in whole or in part, and on such terms as are deemed right."—31 V., c. 61, s. 19.

It seemed necessary and proper to make at once any claim founded on infraction of the Customs Laws, in view of the possible termination of the proceedings by executive interference under this enactment. It would surely not be expected that the Government of Canada should wait until the termination of the proceedings under the Fishery Acts before asserting its claim to the penalty under the Customs Act. The owners of the offending vessel, and all concerned, were entitled to know, as soon as they could be made aware, what the claims of the Government were in relation to the vessel, and they might fairly urge that any which were not disclosed were waived.

2. Mr. Phelps' remarks that this charge is "not the one on which this vessel was seized," and "was an after thought." The vessel was seized by the commander of the "Lansdowne" for a violation of the Fishery Laws before the Customs authorities had any knowledge that such a vessel had come into the port, or had attempted to leave it, and the Commander was not aware at that time whether the "David J. Adams" had made proper entry or not. A few hours afterwards, however, the Collector of Customs at Digby ascertained the facts, and on the facts being made known to the head of his Department at Ottawa, was immediately instructed to take such steps as might be necessary to assert the claim for the penalty which had been incurred. The Collector did so.

3. Mr. Phelps asserts that the charge of breach of the Customs Law is not the one "which must now be principally relied on for condemnation." It is true that condemnation does not necessarily follow. The penalty prescribed is a forfeiture of four hundred dollars, on payment of which the owners are entitled to the release of the vessel.

If Mr. Phelps means by the expression just quoted, that the Customs' offence cannot be relied on, in respect to the penalty claimed, and that the vessel cannot be detained until that penalty is paid, it can only be said that in this contention the Canadian Government does not concur. Section 29 of the Customs' Act, before quoted, is explicit on that point.

4. It is also urged that the offence was at most "only an accidental and clearly technical breach of a Customs House regulation, by which no harm was intended and from which no harm came, and would in ordinary cases be easily condoned by an apology, and, perhaps, payment of costs." What has already been said under the heading, "The Offence (as to Custom Laws)," presents the contention opposed to the offence being considered as "accidental." The master of the "David J. Adams" showed by his language and conduct that what he did, he did with design and with the knowledge that he was violating the laws of the country. He could not have complied with the Customs Law without frustrating the purposes for which he had gone into port. As to the breach being a "technical" one, it must be remembered that with thousands of miles of coast, indented as the coasts of Canada are, by hundreds of harbours and inlets, it is impossible to enforce the Fishery Law without a strict enforcement of the Customs Laws. This difficulty was not unforeseen by the framers of the Treaty of 1818, who provided that the fishermen should be "under such restrictions as might be necessary to prevent their taking, drying, or curing fish, \* \* \* or in any other manner whatever *abusing the privileges reserved to them.*" No naval force which could be equipped by the Dominion would of itself be sufficient for the enforcement of the Fishery Laws. Foreign fishing vessels are allowed by the Treaty to enter the harbours and inlets of Canada, but they are allowed to do so only for specified purposes. In order to confine them to those purposes it is necessary to insist on the observance of the Customs Laws, which are enforced by officers all along the coast. A strict enforcement of the Customs Laws, and one consistent with the Treaty, would require that, even when coming into port for the purposes for which such vessels are allowed to enter our waters, a report should be made at the Customs House, but this has not been insisted on in all cases. When the Customs Laws are enforced against those who enter for other than legitimate purposes, and who choose to violate both the Fishery Laws and Customs Laws, the Government is far within its right, and should not be asked to accept an apology and payment of costs. It may be observed here, as affecting Mr. Phelps' demand for restoration and damages, that the apology and costs have never been tendered, and that Mr. Phelps seems to be of opinion that they are not called for.

5. Mr. Phelps is informed by the Consul General at Halifax that it is "conceded by the Customs authorities there that foreign fishing vessels have for forty years been accustomed to go in and out of the bay at pleasure, and have never been required to send ashore and report when they had no business with the port, and made no landing, and that no seizure had ever before been made, or claim against them for so doing." Nothing of this kind is, or could be conceded by the Customs authorities there, or elsewhere in Canada. The bay referred to, the Annapolis Basin, is like all the other harbours of Canada, except that it

is unusually well defined and land locked, and furnished with Customs Houses. Neither there, nor any where else, have foreign fishing vessels been accustomed to go in and out at pleasure without reporting. If they had been so permitted the fishery laws could not have been enforced, and there would have been no protection against illicit trading while the Reciprocity Treaty of 1854 and the fishery clauses of the Washington Treaty were in force, the Convention of 1818 being of course suspended, considerable laxity was allowed to United States' fishing vessels,—much greater than the terms of those treaties entitled them to, but the Consul General is greatly mistaken when he supposes that at other times the Customs laws were not enforced, and that seizures of foreign fishing vessels were not made for omitting to report. Abundant evidence on this point can be had.

In 1839, Mr. Vail, the Acting Secretary of State (United States) reported that most of the seizures (which then were considered numerous) were for alleged violations of the Customs Laws. (Papers relating to the Treaty of Washington, Vol. 6, p. 283, Washington Edition.) From a letter of the United States' Consul at Charlottetown, dated 19th August, 1870, to the United States' Consul General at Montreal, it appears that it was the practice of the United States' fishermen at that time to make regular entry at the port to which they resorted. The Consul said "here the fishermen enter and clear, and take out permits to land their mackerel from the collector, and as their mackerel is a free article in this Island, there can be no illicit trade." In the year 1870, two United States' fishing vessels, the "H. W. Lewis" and the "Granada" were seized on like charges in Canadian waters.

What Mr. Phelps styles "a Customs House regulation" is an Act of the Parliament of Canada, and has for many years been in force in all the Provinces of the Dominion. It is one which the Government cannot at all alter or repeal, and which its officers are not at liberty to disregard.

6. It is suggested, though not asserted, in the letter of Mr. Phelps, that the penalty cannot reasonably be insisted on, because a new rule has been suddenly adopted without notice. The rule, as before observed, is not a new one, nor is its enforcement a novelty. As the Government of the United States chose to put an end to the arrangements under which the fishermen of that country were accustomed to frequent Canadian waters with so much freedom, the obligation of giving notice to those fishermen, that their rights were thereafter, by the action of their own Government, to be greatly restricted, and that they must not infringe the laws of Canada, was surely a duty incumbent on the Government of the United States, rather than on that of Canada. This point cannot be better expressed than in the language reported to have been recently used by Mr. Bayard, the United States' Secretary of State, in his reply to the owners of the "George Cushing," a vessel recently seized on a similar charge. "You are well aware that questions are now pending between this Government and that of Great Britain in relation to the justification of the rights of American fishing vessels in the territorial waters of British North America, and we shall relax no effort to arrive at a satisfactory solution of the difficulty. In the meantime it is the duty and manifest interest of all American citizens, entering Canadian jurisdiction, to ascertain and obey the laws and regulations there in force. For all unlawful depredations of property or commercial rights this Government will expect to procure redress and compensation for the innocent sufferers."

### *Interpretation of the Treaty.*

Mr. Phelps after commenting in the language already quoted from his letter, on the claim for the Customs penalty, treats, as the only real question in the case, the question whether the vessel is to be forfeited for purchasing bait to be used in lawful fishing. In following his argument on this point, it should be borne in mind, as already stated, that, in so far as the fact of the bait having been intended to be used in lawful fishing is material to the case, that is a fact which is not admitted. It is one in respect of which the burden of proof is on the owners of the vessel, and it is one on which the owners have not yet obtained an adjudication by the tribunal before which the case has gone.

Mr. Phelps admits "that if the language of the Treaty of 1818 is to be interpreted literally, rather than according to its spirit and plain intent, a vessel engaged in fishing would be prohibited from entering a Canadian port for any purpose whatever; except to obtain wood or water, or to repair damages, or to seek shelter."

It is claimed on the part of the Government of Canada that this is not only the language of the Treaty of 1818, but "its spirit and plain intent." To establish this contention, it should be sufficient to point to the clear, unambiguous words of the Treaty. To those clear and unambiguous words Mr. Phelps seeks to attach a hidden meaning, by suggesting that certain "preposterous consequences" might ensue from giving them their ordinary construction. He says that with such a construction a vessel might be forfeited for entering a port "to post

a letter, to send a telegram, to buy a newspaper, to obtain a physician in case of illness, or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants, &c.

There are probably few treaties or statutes, the literal enforcement of which might not in certain circumstances produce consequences worthy of being described as preposterous.

At most this argument can only suggest that in regard to this Treaty as in regard to every enactment its enforcement should not be insisted on where accidental hardships or "preposterous consequences are likely to ensue. Equity, and a sense of natural justice, would doubtless lead the Government with which the Treaty was made to abstain from its rigid enforcement for inadvertent offences, although the right so to enforce it might be beyond question. It is for this reason that inasmuch as the enforcement of this Treaty, to some extent, devolves on the Government of Canada, the Parliament of the Dominion has in one of the sections already quoted of the statute relating to "Fishing by foreign Vessels" (31 Vic., cap. 61, s. 19) entrusted the Executive with power to mitigate the severity of those provisions when an appeal to Executive interference can be justified. In relation to every law of a penal character the same power for the same purpose is vested in the Executive. Mr. Phelps will find it difficult, however, to discover any authority among the jurists of his own country or of Great Britain, or among the writers on International Law, for the position that against the plain words of a treaty or statute, an interpretation is to be sought which will obviate all chances of hardship and render unnecessary the exercise of the Executive power before mentioned.

It might fairly be urged against his argument, that the Convention of 1818 is less open to an attempt to change its plain meaning than even a statute would be. The latter is a declaration of its will by the supreme authority of the State, the former was a compact deliberately and solemnly made by two parties, each of whom expressed what he was willing to concede, and by what terms it was willing to be bound. If the purpose for which the United States desired that their fishing vessels should have the right to enter British American waters included other than those expressed, their desire cannot avail them now, nor be a pretext for a special interpretation, after they assented to the words "and for no other purpose whatever." If it was "preposterous" that their fishermen should be precluded from entering Provincial waters "to post a letter" or for any other of the purposes which Mr. Phelps mentions, they would probably never have assented to a treaty framed as this was. Having done so, they cannot now urge that their language was "preposterous" and that its effect must be destroyed by resort to "interpretation."

But that which Mr. Phelps calls "literal interpretation" is by no means so preposterous as he suggests, when the purpose and object of the treaty come to be considered. While it was not desired to interfere with ordinary commercial intercourse between the people of the two countries, the deliberate and declared purpose existed on the part of Great Britain, and the willingness existed on the part of the United States to secure, absolutely and free from the possibility of encroachment, the fisheries of the British possessions in America, to the people of those possessions, excepting as to certain localities in respect of which special provisions were made. To effect this it was not merely necessary that there should be a joint declaration of the right which was to be established, but that means should be taken to preserve that right. For this purpose a distinction was necessarily drawn between United States' vessels engaged in commerce and those engaged in fishing. While the former had free access to our coasts, the latter were placed under a strict prohibition.

The purpose was to prevent the fisheries from being poached on, and to preserve them to "the subjects of His Britannic Majesty in North America" not only for the pursuit of fishing within the waters adjacent to the coast (which can under the law of nations be done by any country) but as a basis of supplies for the pursuit of fishing in the deep sea. For this purpose it was necessary to keep out foreign fishing vessels, excepting in cases of dire necessity, no matter under what pretext they might desire to come in. The fisheries could not be preserved to our people if every one of the United States' fishing vessels that were accustomed to swarm along our coasts could claim the right to enter our harbours, "to post a letter, or send a telegram, or buy a newspaper, to obtain a physician in case of illness, or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants in fire, flood or pestilence," or to "buy medicine" or to "purchase a new rope." The slightest acquaintance with the negotiations which led to the Treaty of 1818, and with the state of the fishery question preceding it, induces the belief that if the United States' negotiators had suggested these, as purposes for which their vessels should be allowed to enter our waters the proposal would have been rejected as "preposterous," to quote Mr. Phelps' own words. But Mr. Phelps appears to have over-looked an important part of the case, when he suggested that it is a "preposterous" construction of the treaty which would lead to the purchase of bait being prohibited. So far from such a construction being against "its spirit and plain intent," no other meaning would accord with that spirit and intent. If we adopt

one of the methods, contended for by Mr. Phelps, of arriving at the true meaning of the treaty, namely, having reference to the "attending circumstances," &c., we find that so far from its being considered by the framers of the treaty that a prohibition of the right to obtain bait would be a "preposterous" and an "extreme instance," a proposition was made by the United States' negotiators that the proviso should read thus: *Provided, "however, that American fishermen shall be permitted to enter such bays and harbours, for the purposes only of obtaining shelter, wood, water and bait," and the insertion of the word "bait" was resisted by the British negotiators and struck out. After this how can it be contended that any rule of interpretation would be sound which would give to United States' fishermen the very premission which was sought for on their behalf during the negotiations, successfully resisted by the British representatives and deliberately rejected by the framers of the convention?*

It is a well known fact that the negotiations preceding the Treaty had reference very largely to the deep sea fisheries, and that the right to purchase bait in the harbours of the British possessions, for the deep sea fishing was one which the United States' fishermen were intentionally excluded from. Referring to the difficulties which subsequently arose from an enforcement of the Treaty, an American author says: "It will be seen that most of those difficulties arose from a change in the character of the fisheries. Cod being caught on the banks were seldom pursued within the three mile limit, and yet it was to cod, and perhaps halibut, that all the early negotiations had reference."

"The mackerel fishing had now sprung up in the Gulf of St. Lawrence, and had proved extremely profitable. This was at that time an inshore fishery."—(Schuyler's American Diplomacy, page 411.)

In further amplification of this argument the undersigned would refer to the views set forth in the memorandum, before mentioned, in the letters of Mr. Bayard, in May last, and to those presented in the report of the Minister of Marine and Fisheries, approved on the 14th June, ultimo.

While believing, however, that Mr. Phelps cannot, by resort to any such matters, successfully establish a different construction for the Treaty from that which its words present, the undersigned submits that Mr. Phelps is mistaken as to the right to resort to any matters outside the Treaty itself to modify its plain words. Mr. Phelps expresses his contention thus: "It seems to me clear that the Treaty may be considered in accordance with those ordinary and well settled rules, applicable to all written instruments, which, without such salutary assistance, must constantly fail of their purpose. By these rules the letter often gives way to the intent, or rather is only used to ascertain the intent, and the whole document will be taken together, and will be considered in connection with the attending circumstances, the situation of the parties and the object in view, and thus the literal meaning of an isolated clause is often shown not to be the meaning really understood or intended." It may be readily admitted that such rules of interpretation exist, but when are they to be applied? Only when "interpretation" is necessary. When the words are plain in their ordinary meaning, the task of interpretation does not begin, Vattel says, in reference to the "Interpretation of Treaties:"

"The first general maxim of interpretation is that, *it is not allowable to interpret what has no need of interpretation.* When the deed is worded in clear and precise terms; when its meaning is evident, and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures, in order to restrict or extend it, is but an attempt to elude it."

Those cavillers who dispute the sense of a clear and determinate article are accustomed to seek their frivolous subterfuges in the pretended intentions and views which they attribute to its author. It would be very often dangerous to enter with them into the discussion of those supposed views that are pointed out in the piece itself. The following rule is better calculated to foil such cavillers and will at once cut short all chicanery. *If he who could, and ought to have explained himself clearly and fully, has not done it, it is the worse for him;* he cannot be allowed to introduce subsequent restrictions which he has not expressed. This a maxim of the Roman Law: *Pactionem obscuram iis nocere in quorum fuit potestate legem apertius conscribere.* The equity of this rule is glaringly obvious and its necessity is not less evident." (Vattel's "Interpretation of Treaties" Liv. II, Cap. 17.)

Sedgewich, the American writer, on the "Construction of Statutes," (and treaties are constructed by much the same rules as statutes), says, at page 194: "The rule is, as we shall constantly see, cardinal and universal, that if the statute is plain and unambiguous, there is no room for construction or interpretation. The Legislature has spoken, their intention is free from doubt, and their will must be obeyed. '*It may be proper,*' it has been said in Kentucky, in giving a construction to a statute, to look to the effects and consequences, when its provisions are ambiguous, or the Legislative intention is doubtful. But when the law is clear and explicit, and its provisions are susceptible of but one interpretation, its con-

sequences, if evil, can only be avoided by a change of the law itself, to be effected by legislative and not judicial action. So too it is said by the Supreme Court of the United States, where a law is plain and unambiguous, whether it be expressed in general or limited terms, the Legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction."

At the tribunal of Arbitration at Geneva, held under the Washington Treaty in 1872, a similar question arose. Counsel for Her Majesty's Government presented a supplemental argument in which the ordinary rules for the interpretation of Treaties were invoked. Mr. Evarts, one of the Counsel for the United States, and afterwards Secretary of State, made a supplemental reply, in which the following passage occurs: "At the close of the special argument we find a general presentation of canons for the construction of Treaties, and some general observations as to the light, or the controlling reason, under which these rules of the Treaty should be construed. These suggestions may be briefly dismissed. It certainly would be a very great reproach to these nations, which had deliberately fixed upon three propositions, as expressive of the law of nations in their judgment for the purposes of this trial, that a resort to general instructions, for the purpose of interpretation, was necessary. Eleven canons of interpretation drawn from Vattel are presented in order, and then several of them, as the case suits, are applied as valuable in elucidating this or that point of the rules. But the learned Counsel has omitted to bring to your notice the first and most general rule of Vattel, which being once understood, would, as we think, dispense with any consideration of the subordinate canons, which Vattel has introduced, to be used only in case his first general rule does not apply. This first proposition is that *"it is not allowable to interpret what has no need of interpretation."* (Washington Treaty Papers, Vol. III. pp. 446-7.)

In a letter of Mr. Hamilton Fish to the United States' Minister in England, on the same subject, dated 16th April, 1872, the following view was set forth:—

"Further than this it appears to me that the principles of English and American law (and they are substantially the same) regarding the construction of Statutes and Treaties and of written instruments generally, would preclude the seeking of evidence of interest outside the instrument itself. It might be a painful trial on which to enter, in seeking the opinions and recollections of parties to bring into conflict the differing expectations of those who were engaged in the negotiation of an instrument."—(Washington Treaty Papers, Vol. II, page 473.)

But even at this barrier, the difficulty in following Mr. Phelps' argument, by which he seeks to reach the interpretation he desires, does not end after taking a view of the Treaty which all authorities thus forbid. He says: "Thus regarded, it appears to me clear that the words 'for no other purpose whatever,' as employed in the Treaty, mean 'for no other purpose inconsistent with the provisions of the Treaty.'"

Taken in that sense the words would leave no meaning, for no other purpose would be consistent with the Treaty, excepting those mentioned.

He proceeds, "or prejudicial to the interests of the Provinces or their inhabitants." If the United States' authorities are the judges as to what is prejudicial to those interests, the Treaty will have very little value. If the Provinces are to be the judges, it is most prejudicial to their interests that United States' fishermen should be permitted to come into their harbours on any pretext, and it is fatal to their fishery interests that those fishermen, with whom they have to compete at such a disadvantage in the markets of the United States, should be allowed to enter for supplies and bait, even for the pursuit of the deep sea fisheries. Before concluding his remarks on this subject, the undersigned would refer to a passage in the answer on behalf of the United States to the case of Her Majesty's Government, as presented to the Halifax Fisheries Commission in 1877: "The various incidental and reciprocal advantages of the Treaty, such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the Treaty of Washington confers no such rights on the inhabitants of the United States, *who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws, or the re-enactment of former oppressive Statutes.*"

Mr. Phelps has made a lengthy citation from the Imperial Act, 59 Geo. III, cap. 38, for the purpose of establishing:—

1st. That the penalty of forfeiture was not incurred by any entry into British ports, unless accompanied by fishing, or preparing to fish, within the prohibited limits.

2nd. That it was not the intention of Parliament, or its understanding of the Treaty, that any other entry should be regarded as an infraction of the provisions of that Act.

As regards the latter point it seems to be effectually disposed of by the quotation which Mr. Phelps has made. The Act permits fishermen of the United States to enter into the bays or harbours of His Britannic Majesty's Dominions in America for the purposes named in the Treaty, "and for no other purpose whatever," and after enacting the penalty of forfeiture, in regard to certain offences, provides a penalty of £200 sterling against any person other-

wise offending against the Act. It cannot, therefore, be successfully contended that Parliament intended to permit entry into the British American waters for the purchase of bait or for any other than the purposes specified in the Treaty.

As to the first point it is to be observed that the penalty of forfeiture was expressly pronounced as applicable to the offence of fishing or preparing to fish. It may be that forfeiture is incurred by other illegal entry, contrary to the Treaty and contrary to the Statute. It may also be contended that preparing within the prohibited limits to fish in any place is the offence at which the penalty is aimed, or it may be that the preparing within these waters to fish, is evidence of preparing to fish within the prohibited waters under the Imperial Statute, and especially under the Canadian Statute which places the burden of proof on the defendant.

The undersigned does not propose, at this time, to enter into any elaborate argument to show the grounds on which the penalty of forfeiture is available, because that question is one which is more suitable for determination by the courts, to whose decision it has been referred in the very case under consideration.

The decision in the case of the "David J. Adams" will be soon pronounced, and as the Government of Canada will be bound by the ultimate judgment of competent authority on this question, and cannot be expected to acquiesce in the view of the United States' Government, without such judgment, any argument of the case in diplomatic form would be premature and futile.

In order, however, to show that Mr. Phelps is in error when he assumes that the practical construction hitherto given to the Treaty is in accordance with his views, it is as well to state that in the year 1815 the Commander of one of Her Majesty's ships of war seized four United States' fishing vessels, (see Sabine on Fisheries), and again in 1817 the Imperial Government acted on the view that they had the right to seize foreign vessels encroaching on the fishing grounds. Instructions were issued by Great Britain to seize foreign vessels fishing or at anchor in any of the harbours or creeks in the British North American possessions, or within their maritime jurisdictions, and send them to Halifax for adjudication. Several vessels were seized and information was fully communicated to the Government of the United States. This, it will be remembered, was not only before the Treaty, but before the Imperial Act above referred to.

The following were the words of the Admiralty instructions then issued: "On your meeting with any foreign vessel fishing or at anchor in any of the harbours or creeks in His Majesty's North American Provinces, or within our maritime jurisdiction, you will seize and send such vessel so trespassing to Halifax for adjudication, unless it should clearly appear that they have been obliged to put in there in consequence of distress, acquainting me with the cause of such seizure, and every other particular, to enable me to give all information to the Lord's Commissioners of the Admiralty."

Under these instructions eleven or twelve American fishing vessels were seized in Nova Scotia on 8th June, 1817, in consequence of their frequenting some of the harbours of that Province.

In 1818 the fishing vessels "Nabby" and "Washington" were seized and condemned for entering and harbouring in British American waters.

In 1839 the "Java," "Independence," "Magnolia" and "Hart" were seized and confiscated, the principal charge being that they were within British American waters without legal cause.

In 1840 the "Papineau" and "Mary" were seized and sold for purchasing bait.

In the spring of 1819 a United States' fishing vessel named the "Charles" was seized and condemned in the Vice-Admiralty Court in New Brunswick for having resorted to a harbour of that Province after warning and without necessity.

In the year 1871 the United States' fishing vessel "J. H. Nickerson" was seized for having purchased bait within three marine miles of the Nova Scotia shore, and condemned by the judgment of Sir William Young, Chief Justice of Nova Scotia, and Judge of the Court of Vice-Admiralty. The following is a passage from his judgment: "The vessel went in, not to obtain water or men, as the allegation says, but to purchase or procure bait (which as I take it, is a preparing to fish), and it was contended that they had a right to do so, and that no forfeiture accrued on such entering. The answer is, that if a privilege to enter our harbours for bait was to be conceded to American fishermen it ought to have been in the Treaty, and it is too important a matter to have been accidentally overlooked. We know, indeed, from the State papers, that it was not overlooked, that it was suggested and declined. But the Court, as I have already intimated, does not insist upon that as a reason for its judgment. What may be fairly and justly insisted on is, that beyond the four purposes specified in the Treaty—shelter, repairs, water and wood—here is another purpose or claim, not specified, while the Treaty itself declares that no such other purpose or claim shall be received to justify an entry. It appears to me an inevitable conclusion that the "J. H. Nickerson" in entering

the Bay of Ingonish for the purpose of procuring bait, while there, became liable to forfeiture and upon the true construction of the Treaty and Acts of Parliament was legally seized." (Vide Halifax Com., Vol. III., pp. 3398, Washington Edition).

In view of these seizures and of this decision it is difficult to understand the following passages in the letter of Mr. Phelps: "The practical construction given to the Treaty, down to the present time, has been in entire accord with the conclusions thus deduced from the Act of Parliament. The British Government has repeatedly refused to allow interference with American fishing vessels, unless for illegal fishing, and has given explicit orders to the contrary."

"Judicial authority upon the question is to the same effect. That the purchase of bait by American fishermen in the Provincial ports has been a common practice is well known, but in no case, so far as I can ascertain, has a seizure of an American vessel ever been enforced on the ground of the purchase of bait, or of any other supplies. On the hearing before the Halifax Fishery Commission in 1877-78 this question was discussed and no case could be produced of any such condemnation. Vessels shown to have been condemned were in all cases adjudged guilty either of fishing or preparing to fish, within the prohibited limits."

Although Mr. Phelps is under the impression that "in the hearing before the Halifax Fishery Commission in 1877 this question was discussed and no case could be produced of any such condemnation," the fact appears in the records of that Commission, as published by the Government of the United States, that on a discussion which there arose, the instances above mentioned were nearly all cited, and the judgment of Sir William Young in the case of the "J. H. Nickerson" was presented in full, and it now appears among the papers of that Commission (see Vol. III., Documents and Proceedings of Halifax Commission, page 3398, Washington edition). The decision in the case of the "J. H. Nickerson" was subsequent to that in the case of the "White Fawn" mentioned to the exclusion of all the other cases referred to by Mr. Phelps. Whether that decision should be re-affirmed or not is a question more suitable for judicial determination than for discussion here.

#### *Right of the Dominion Parliament to Make Fishery Enactments.*

Mr. Phelps deems it unnecessary to point out that it is not in the power of the Canadian Parliament to alter or enlarge the provisions of the Act of the Imperial Parliament, or to give to the Treaty a construction or legal effect not warranted by that Act.

No attempt has ever been made by the Parliament of Canada or by that of any of the Provinces to give a "construction" to the Treaty, but the undersigned submits that the right of the Parliament of Canada, with the Royal assent given in the manner provided in the constitution, to pass an Act on this subject to give that Treaty effect, or to protect the people of Canada from the infringement of the Treaty provisions, is clear beyond question. An Act of that Parliament duly passed, according to constitutional forms, has as much the force of law in Canada and binds as fully offenders who may come within its jurisdiction, as any Act of the Imperial Parliament.

The efforts made on the part of the Government of the United States to deny and refute the validity of Colonial statutes on this subject have been continued for many years, and in every instance have been set at naught by the Imperial authorities and by the judicial tribunals.

In May, 1870, this vain contention was completely abandoned. A circular was issued by the Treasury Department at Washington, in which circular the persons to whom it was sent were authorized and directed to inform all masters of fishing vessels that the authorities of the Dominion of Canada had resolved to terminate the system of granting fishing licenses to foreign vessels.

The circular proceeds to state the terms of the Treaty of 1818, in order that United States' fishermen might be informed of the limitation thereby placed on their privileges. It proceeds further to set out at large the Canadian Act of 1868, relating to fishing by foreign vessels, which has been hereinbefore referred to.

The fishermen of the United States were by that circular expressly warned of the nature of the Canadian statute which it is now once more pretended is without force, but no intimation was given to those fishermen that these provisions were nugatory, and would be resisted by the United States' Government. Lest there should be any misapprehension on that subject, however, on 9th June of the same year, less than a month after that circular, another circular was issued from the same Department, stating again the terms of the Treaty of 1818, and these containing the following paragraph:—

"Fishermen of United States are bound to respect the British laws for the regulation and preservation of the fisheries, to the same extent to which they are applicable to British and Canadian fishermen." The same circular, noticing the change made in the Canadian

Fishery Act of 1868, by the Amendment of 1870, makes this observation: "It will be observed that the warning formerly given is not required under the amended Act, but that vessels trespassing are liable to seizure without such warning."

*The Canadian Statute of 1886.*

Mr. Phelps is again under an erroneous impression, with regard to the statute introduced at the last session of the Dominion Parliament.

He is informed that "since the seizure the Canadian authorities have pressed, or are pressing through the Canadian Parliament, in much haste, an Act, which is designed, for the first time in the history of the legislation under this Treaty, to make the facts upon which the American vessels have been seized illegal, and to authorize proceedings against them therefor."

The following observations are appropriate in relation to this passage of Mr. Phelps' letter:—

1. The Act which he refers to, was not pressed with haste. It was passed through the two Houses in the usual manner, and with the observance of all the usual forms. Its passage occupied probably more time than was occupied in the passage through the Congress of the United States, of a measure which possesses much the same character, and which will be referred to hereafter.

2. The Act has no bearing on the seizures referred to.

3. It does not make any Act illegal which was legal before, but declares what penalty attaches to the offences which were already prohibited.

It may be observed, in reference to the charges of "undue haste" and of "legislating for the first time in the history of the legislation under the Treaty," that before the Statute referred to had become law the United States' Congress passed a Statute containing the following section:—

"That whenever any foreign country whose vessels have been placed on the same footing in the ports of United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbours, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is hereby authorized to issue his proclamation, excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against and suspending such concessions previously granted to the vessels of such country, and on and after the date named in such proclamation for it to take effect, if the master, officer or agent of any vessel of such foreign country excluded by said proclamation from the exercise of any commercial privileges shall do any act prohibited by said proclamation, in the ports, harbours, or waters of the United States for or on account of such vessel, such vessel, and its rigging, tackle, furniture and boats, and all the goods on board shall be liable to seizure and to forfeiture to the United States, and any person opposing any officer in the United States in the enforcement of this Act, or aiding and abetting any other person in such opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years." Sec: 17 of Act No. 85 of Congress, 1886.

This enactment has all the features of hostility which Mr. Phelps has stigmatized as "unprecedented in the history of legislation under the Treaty."

*Enforcement of the Acts Without Notice.*

Mr. Phelps insisted upon what he regards as "obvious grounds of reason and justice" and "upon common principles of comity," that previous notice should have been given of the "new and stringent restrictions" it was intended to enforce.

It has already been shown that no new restrictions have been attempted. The case of the "David J. Adams" is proceeding under the Statutes which have been enforced during the whole time when the Treaty had operation.

It is true that for a short time prior to the Treaty of Washington, and when expectations existed of such a Treaty being arrived at, the instructions of 1870, which are cited by Mr. Phelps, were issued by the Imperial authorities. It is likewise true that under these instructions the rights of Her Majesty's subjects in Canada were not insisted on, in their entirety. These instructions were obviously applicable to the particular time at which and the particular circumstances under which they were issued by Her Majesty's Government.

But it is obviously unfair to invoke them now, under wholly different circumstances, as establishing a "practical construction" of the Treaty, or as affording any ground for claiming that the indulgence which they extended should be perpetual.

The fishery clauses of the Treaty of Washington were annulled by a notice from the Government of the United States, and, as has already been urged, it would seem to have been the duty of that Government, rather than of the Government of Canada, to have warned its own people of the consequences which must ensue. This was done in 1870 by the circulars from the Treasury Department at Washington, and might well have been done at this time.

Mr. Phelps has been pleased to stigmatize "the action of the Canadian authority in seizing and still detaining the 'David J. Adams' as not only unfriendly and discourteous, but altogether unwarrantable."

He proceeds to state that that vessel "had violated no existing law," although his letter cites the statute which she had directly and plainly violated, and he states that she "had incurred no penalty that any known statute imposed," while he has quoted at large the words which inflict a penalty for the violation of that statute. He declares, it seems impossible for him to escape the conclusion that "this and similar seizures were made by the Canadian authorities for the deliberate purpose of harassing and embarrassing the American fishing vessels in the pursuit of their lawful employment," and that the injury is "very much aggravated by the motives which appear to have prompted it."

He professes to have found the real source of the difficulty in "the irritation which has taken place among a portion of the Canadian people, on account of the termination by the United States' Government of the Washington Treaty," and in a desire to drive the United States, by "harassing and annoying their fishermen, into the adoption of a new Treaty, by which Canadian fish shall be admitted free," and he declares that "this scheme is likely to prove as mistaken in policy as it is unjustifiable in principle."

He might, perhaps, have more accurately stated the real source of the difficulty had he suggested that the United States' authorities have long endeavoured, and are still endeavouring, to obtain that which, by their solemn Treaty, they deliberately renounced, and to deprive the Canadian people of that which by Treaty the Canadian people lawfully acquired.

The people of the British North American Provinces, ever since the year 1818 (with the exception of those periods in which the Reciprocity Treaty and the Fishery clauses of the Washington Treaty prevailed) have, at enormous expense, and with great difficulty, been protecting their fisheries against encroachments by fishermen of the United States, carried on under every form and pretext, and aided by such denunciations as Mr. Phelps has thought proper to reproduce on this occasion. They value no less now than they formerly did the rights which were secured to them by the Treaty, and they are still indisposed to yield those rights, either to individual aggression or official demands.

The course of the Canadian Government since the rescission of the Fishery clauses of the Washington Treaty has been such as hardly to merit the aspersions which Mr. Phelps has used. In order to avoid irritation, and to meet a desire which the Government represented by Mr. Phelps professed to entertain for the settlement of all questions which could re-awaken controversy, they conceded, for six months, after the expiration of those clauses, all the benefits which the United States' fishermen had enjoyed under them, although during that interval the Government of the United States enforced against Canadian fishermen the laws which those fishery clauses had suspended.

Mr. Bayard, the United States' Secretary of State, has made some recognition of these facts in a letter which he is reported to have written recently to the owners of the "David J. Adams." He says—

"More than one year ago I sought to protect our citizens engaged in fishing from results which might attend any possible misunderstanding between the Governments of Great Britain and the United States, as to the measure of their mutual rights and privileges in the territorial waters of British North America. After the termination of the Fishery Articles of the Treaty of Washington, in June last, it seemed to me then, and seems to me now, very hard that differences of opinion between the two Governments should cause loss to honest citizens, whose line of obedience might be thus rendered vague and uncertain, and their property be brought into jeopardy. Influenced by this feeling I procured a temporary arrangement, which secured our fishermen full enjoyment of all Canadian fisheries, free from molestation, during a period which would permit discussion of a just international settlement of the whole fishery question; but other counsels prevailed, and my efforts further to protect fishermen from such trouble as you now suffer, were unavailing."

"At the end of the interval of six months, the United States' authorities concluded to refrain from any attempt to negotiate for larger fishery rights for their people, and they have continued to enforce their Customs laws against the fishermen and people of Canada."

The least they could have been expected to do under these circumstances was to leave to the people of Canada the full and unquestioned enjoyment of the rights secured to them by Treaty.

The Government of Canada has simply insisted upon those rights, and has presented to the legal tribunals its claim to have them enforced.

The insinuations of ulterior motives, the imputations of unfriendly dispositions, and the singularly inaccurate representation of all the leading features of the questions under discussion may, it has been assumed, be passed by with little more comment. They are hardly likely to induce Her Majesty's Government to sacrifice the rights which they have heretofore helped our people to protect, and they are too familiar to awaken indignation or surprise.

The undersigned respectfully recommends that the substance of this memorandum, if approved, be forwarded to the Secretary of State for the Colonies, for the information of Her Majesty's Government.

(Sd.) JNO. S. D. THOMPSON,  
*Minister of Justice.*

OTTAWA, 22nd July, 1886.

No. 148.

*Lord Lansdowne to Mr. Stanhope.*

CANADA, GOVERNMENT HOUSE,  
OTTAWA, 9th Nov., 1886.

SIR,—In accordance with the request contained in your telegram of the 2nd instant, I have the honour to forward herewith a certified copy of the Bill entitled, "An Act further to amend the Act respecting Fishing by Foreign Vessels," which was passed by the Parliament of Canada last session.

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EDWARD STANHOPE.  
&c., &c., &c.

(Telegram.)

No. 149.

*Sir L. S. West to the Governor General.*

WASHINGTON, D.C., 17th November, 1886.

"My despatch No. 22, of 28th ultimo, am instructed to ask you for information desired for communication to United States' Government."

(Sd.) WEST.

No. 150.

*Mr. Stanhope to the Governor General.*

[No. 244.]

DOWNING STREET, <sup>8</sup>  
22nd November, 1886.

MY LORD,—With reference to my telegram of the 6th instant, I have the honour to transmit to you, for communication to your Government, copies of two letters from the Foreign Office, with their enclosures, respecting the alleged proceedings of the

Canadian authorities in the case of the United States' fishing vessels "Pearl Nelson" and "Everitt Steele."

I shall, no doubt, be favored shortly with the report on the subject requested in my telegram.

I have, &c.,

(Sd.)

EDWARD STANHOPE.

Governor General,

The Most Honourable

The MARQUIS OF LANSDOWNE, G.C.M.G.,

&c., &c., &c.

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[Enclosure No. 1.]

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 4th November, 1886.

SIR,—I am directed by the Earl of Iddesleigh to transmit to you a copy of a despatch from Her Majesty's Minister at Washington, remonstrating against the action of the Canadian authorities in detaining the United States' fishing vessel "Everitt Steele," which is alleged to have entered Shelburne Harbour for shelter, water, and repairs.

I am to request that you will move Mr. Secretary Stanhope to ask for an immediate report from the Canadian Government upon the circumstances of this case; and I am to suggest that the opportunity might perhaps be taken to urge upon the Dominion Government the great importance of issuing stringent instructions to all officials connected with the fisheries to the effect that great care should be taken not to interfere with the privileges expressly reserved to American fishermen under Article I of the Convention of 1818.

I am, &c.,

(Sd.)

J. PAUNCEFOTE.

The Under Secretary of State,  
Colonial Office.

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[Enclosure No. 2.]

*Sir L. West to the Earl of Iddesleigh.*

[Treaty No. 90.]

WASHINGTON, 20th October, 1886.

MY LORD,—I have the honour to enclose to Your Lordship herewith copy of a note which I have received from the Secretary of State, bringing to the notice of Her Majesty's Government the case of the United States' fishing vessel "Everitt Steele," which is alleged to have entered the Port of Shelburne, Nova Scotia, for shelter, water and repairs, and to have been detained by the captain of the Canadian cruiser "Terror."

I have, &c.,

(Sd.)

L. S. S. WEST.

THE EARL OF IDDESLEIGH,  
&c., &c., &c.

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[Enclosure No. 3.]

*Mr. Bayard to Sir L. West.*

WASHINGTON, 19th October, 1886.

SIR,—The "Everitt Steele," a fishing vessel of Gloucester, Mass., in the United States, of which Chas. E. Forbes, an American citizen, was master, was about to enter, on the 10th of September, 1886, the harbour of Shelburne, Nova Scotia, to procure water, and for shelter during repairs. She was hailed when entering the harbour by the Canadian cutter "Terror," by whose Captain, Quigley, her papers were taken and retained. Captain Forbes on arriving off the town anchored and went with Captain Quigley to the Custom House, who asked

him whether he reported whenever he had come in. Captain Forbes answered that he had always reported with the exception of a visit on the 25th of March, when he was driven into the lower harbour for shelter by a storm and where he remained only eight hours. The collector did not consider that this made the vessel liable, but Captain Quigley refused to discharge her; said he would keep her until he heard from Ottawa, put her in charge of policemen and detained her until next day, when at noon she was discharged by the collector.

But a calm having come on she could not get to sea, and by the delay her bait was spoiled and the expected profits of her trip lost.

It is scarcely necessary for me to remind you, in presenting this case to the consideration of your Government, that when the north-eastern coast of America was wrested from France in a large measure by the valour and enterprise of New England fishermen they enjoyed in common with other British subjects, the control of the fisheries with which that coast was enriched; and that by the Treaty of Peace of 1783, which, as was said by an eminent English judge when treating an analogous question, was a treaty of "Separation," this right was expressly affirmed. It is true that by the Treaty of 1818, the United States renounced a portion of its rights in these fisheries, retaining, however, the old prerogatives of visiting the bays and harbours of the British north-eastern possessions for the purpose of obtaining wood, water and shelter, and for objects incidental to those other rights of territoriality so retained and confirmed. What is the nature of these incidental prerogatives, it is not, in considering this case, necessary to discuss. It is enough to say that Captain Forbes entered the harbour of Shelburne to obtain shelter and water, and that he had as much right to be there, under the Treaty of 1818, confirming in this respect the ancient privileges of American fishermen on those coasts, as he would have had on high seas, carrying on, under shelter of the flag of the United States, legitimate commerce. The Government which you so honourably represent has with its usual candour and magnanimity conceded that when a merchant vessel of the United States is stopped in time of peace by a British cruiser on the grounds of being a slave trader, damages are to be paid to this Government, not merely to redress the injuries suffered, but as an apology for the insult offered to the flag of the United States. But the case now presented to you is a much stronger one than that of a seizure on the high seas of a ship unjustly suspected of being a slaver. When a vessel is seized on the high seas on such a suspicion, its seizure is not on waters where its rights, based on prior and continuous ownership are guaranteed by the sovereign making the seizure. If in such case the property of the owners is injured, it is, however wrongful the Act, a case of rare occurrence on seas comparatively unfrequented, with consequences not very far reaching; and if a blow is struck at a system of which such vessel is unjustly supposed to be a part, such system is one which the civilized world execrates.

But seizures of the character of that which I now present to you have no such features. They are made in waters not only conquered and owned by American fishermen, but for the very purpose for which they were being used by Captain Forbes, guaranteed to them by two successive Treaties between the United States and Great Britain. These fishermen also, I may be permitted to remind you, were engaged in no nefarious trade. They pursue one of the most useful and meritorious of industries; they gather from the seas, without detriment to others, a food which is nutritious and cheap for the use of an immense population; they belong to a stock of men which contributed, before the revolution, most essentially to British victories on the north-eastern Atlantic; and it may not be out of place to say they have shown since that revolution, when serving in the navy of the United States, that they have lost none of their ancient valour, hardihood and devotion to their flag.

The indemnity which the United States has claimed, and which Great Britain has conceded, for the visitation and search of isolated merchantmen seized on remote African seas on unfounded suspicion of being slavers, it cannot do otherwise now than claim, with a gravity which the importance of the case demands, for its fishermen seized on waters in which they have as much right to traverse for shelter as have vessels by which they are molested. This shelter, it is important to observe, they will, as a class, be debarred from if annoyances such as I now submit to you are permitted to be inflicted on them by minor officials of the British Provinces.

Fishermen, as you are aware, have been considered, from the usefulness of their occupation, from their simplicity, from the perils to which they are exposed, and from the small quantity of provisions and protective implements they are able to carry with them, the wards of civilized nations, and it is one of the peculiar glories of Great Britain that she has taken the position, a position now generally accepted, that even in time of war, they are not to be the subjects of capture by hostile cruisers. Yet in defence of this immunity, thus generously awarded by humanity and the laws of nations, the very shelter which they own in these seas, and which is ratified to them by two successive Treaties, is to be denied to them, not, I am confident, by the act of the wise, humane and magnanimous Government you represent,

but by deputies of deputies permitted to pursue, not uninfluenced by local rivalry, these methods of annoyance in fishing waters which our fishermen have as much right to visit on lawful errands as those officials have themselves. For let it be remembered that by annoyances and expulsions such as these, the door of shelter is shut to American fishermen as a class.

If a single refusal of that shelter such as the present be sustained, it is a refusal of shelter to all fishermen pursuing their tasks in those inhospitable coasts. Fishermen have not funds enough, or outfit enough, nor I may add, recklessness enough, to put into harbours where, perfect as is their title, they meet with such treatment as that suffered by Captain Forbes.

To sanction such treatment, therefore, is to sanction the refusal to the United States fishermen as a body of that shelter to which they are entitled by ancient right, by the law of nations, and by solemn Treaty. Nor is this all. That Treaty is part of a system of mutual concessions, as was stated by a most eminent English Judge in the case of *Sutton v. Sutton*, (1 Nyl v. r. 675), which I have already noticed, it was the principle of the Treaty of Peace and of the Treaties which followed between Great Britain and the United States, that the "subjects of the two parts of the divided empire should be, notwithstanding the separation, protected in the mutual enjoyment" of the rights these Treaties affirmed. If, as I cannot permit myself to believe, Great Britain should refuse to citizens of the United States the enjoyment of the plainest and most undeniable of these rights, the consequences would be so serious that they cannot be contemplated by this Government but with the gravest concern.

I have, &c.,

(Sd.) T. F. BAYARD.

The Honourable

SIR L. WEST, K.C.M.G.,  
&c., &c., &c.

[Enclosure No. 4.]

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 4th November, 1886.

SIR,—I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington containing a protest from Mr. Bayard against the action of the Customs officials at Arichat in the case of the American fishing vessel "Pearl Nelson," and I am to request that the Canadian Government may be asked to furnish a report on the subject.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 5.]

*Sir L. West to the Earl of Iddesleigh.*

[Treaty No. 91.]

WASHINGTON, 21st October, 1886.

MY LORD,—In connection with my preceding despatch, I have the honour to enclose to Your Lordship herewith copy of a further note which I have received from the Secretary of State, together with copy of the document which accompanied it, drawing the attention of Her Majesty's Government to the case as therein set forth of the United States' fishing vessel "Pearl Nelson," which it is alleged, has been subjected to treatment by the Customs officials at Arichat (N.S.) inconsistent with the national law of ordinary amity and hospitality, and also plainly violative of treaty rights under the Convention of 1818 between Great Britain and the United States.

I have, &c.,

(Sd.) L. S. S. WEST.

The EARL OF IDDESLEIGH,  
&c., &c., &c.

[Enclosure No. 6.]

*Mr. Bayard to Sir L. West.*

WASHINGTON, 20th October, 1886.

SIR,—Permit me to ask you to draw the attention of your Government to the case set forth in the enclosed affidavit of Murdoch Kemp, master of the American fishing vessel "Pearl Nelson," of Provincetown, Mass., which has been subjected to treatment by the Customs officials at Arichat, Nova Scotia, inconsistent with the international law of ordinary amity and hospitality, and also plainly violative of treaty rights under the Convention of 1818, between Great Britain and the United States.

The vessel in question was compelled by stress of weather to seek shelter in the harbour of Arichat, N.S., and arrived late at night when the Custom House was closed. Before the Custom House was opened the next day the captain went there, and after waiting over an hour, the collector arrived and the usual inward report was made and permission asked to land the clothing of a sailor lost overboard, whose family resided in that vicinity.

He was then informed that his vessel was seized for allowing his crew to go ashore the night before, before reporting at the Custom House.

The cruel irony of this was apparent when the Collector knew such report was impossible and that the landing of the crew was usual and customary, and that no charge of smuggling had been suggested or was possible under the circumstances.

To compel the payment of a fine or a deposit of \$200, which is practically the same in its results, was harsh and unwarranted and was adding a price and a penalty to the privilege of shelter guaranteed to American fishermen by treaty.

This vessel was a fishing vessel, and although seeking to exercise no commercial privileges was compelled to pay commercial fees, such as are applicable to trading vessels; but at the same time was not allowed commercial privileges.

I beg you will lose no time in representing the wrong inflicted upon an unoffending citizen of the United States, and procure the adoption of such orders as will restore the money so compelled to be deposited.

I am, &amp;c.,

(Sd)

T. F. BAYARD.

The Honourable Sir L. WEST, K.C.M.G.,  
&c., &c., &c.

[Enclosure No. 7.]

*Schooner "Pearl Nelson," U. S. A., District of Massachusetts.*

I, Murdoch Kemp, of Provincetown, Massachusetts, a citizen of the United States, on my oath do say: That I was master and part owner of the schooner "Pearl Nelson," a vessel of the United States, duly licensed,— 1886, for the fisheries, and holding a permit to touch and trade during the existence of said license.

I further say that the crew of the said vessel were shipped on wages at Provincetown and Boston for a fishing voyage to the Grand Banks and return to Provincetown for discharge. Said schooner with license and permit as aforesaid, sailed May 29th, 1886, from Provincetown, and on her passage home touched at Arichat, Cape Breton, driven in there by stress of weather; sailed by the wind from Banquereau and blowing fresh, a heavy sea running, and foggy, made Point Michaux, nine miles from Arichat. The vessel was deep, her dorys floated on deck in her lee waist, wind being about west. I concluded to make a harbour and wait for better weather and wind.

I anchored the vessel in Arichat Harbour at 11 p.m., September 7th, 1886.

I had lost a man on the Grand Banks named James Sampson, who belonged to Arichat, and I wanted to land his effects if the Customs officer would allow me to. Some of my crew belonged in that neighborhood. William Batino, my cook, and nine others of my crew took boats off the deck and went ashore without asking my permission. I saw them, but had never known that was any objection. I had been in this and other British and American ports frequently, and witnessed the landing from my own and other vessels crews, but never before heard such landing was illegal or improper. These men took nothing with them from the vessel, nor carried away anything but the clothes they wore.

From the time I left Provincetown I had been into no port anywhere. Next morning after my arrival in Arichat, at 8.30 o'clock, I went ashore to enter at the Custom House, and found it closed. I called at 9 o'clock and it was not open. I went again at 10 o'clock, and

found the Collector opening the office door. I made the regular inward report to him, and requested permission to land the clothes of James Sampson, who had been lost from my vessel on the Grand Banks.

He told me he had sent a man for me. After I got there this man came in the office and was holding my papers, and told the man to go back and take charge of the vessel.

I asked him why he held my papers. He replied he seized her because I had allowed my men to go ashore before reporting at the Custom House ; that all he could tell me was, he said he would telegraph to Ottawa and find out what to do with me, and he did telegraph immediately. About 5 o'clock, p.m., the Collector received an answer and told me to deposit \$200 and the vessel would be released. The Collector would not allow me to land this dead man's clothes until after I had paid the \$200 fine. I gave the clothes to the shop-keeper to be given to Sampson's widow or friends. I came out of Arichat about 11 a.m. on the 8th of September, 1886, having bought there one bushel of potatoes, with the Collector's permit, and arrived (at) Provincetown, 14th September, 1886.

I sailed from Arichat with all my crew on board, and had not at any time intended to leave any of my crew at that port. They were hired men, shipped to be discharged on return at Provincetown, and on our arrival there were all paid off and discharged. Some of the crew that went ashore at Arichat returned aboard as early as 7 o'clock, and all were aboard about the time the vessel was seized. I gave them no money there and had none myself. I further say I did not enter Arichat with any intention of violating any law of the Dominion of Canada, nor for any business, but solely because of the stress of weather that had driven me there. It was mere kindness only that prompted me to offer to land Sampson's clothes there where his friends could get them. There was no profit to the vessel, crew or myself expected in so doing, or attempted to be gained in entering the port of Arichat other than shelter from the stress of weather we had been under from Banquereau. If any revenue law of Canada was violated by my vessel, or by myself, the same was done through ignorance and inadvertence, and not with any intention to defraud the revenue or offend the law.

Personally appeared before me, Murdoch Kemp, at Provincetown, State of Massachusetts, U.S.A., this 27th day of September, 1886, who subscribed and made oath to the foregoing.

[SEAL.]

(Sd.) MURDOCH KEMP.

(Sd.) JAMES GIFFORD,  
*Notary Public.*

No. 151.

*The Secretary of State for the Colonies to the Governor General.*

LONDON, 26th November, 1886.

If no agreement with the United States has been reached before next fishing season, the Admiralty has agreed to give due support to the Fisheries police by the presence of a cruiser. Instructions are now being considered.

(Sd.) SECRETARY OF STATE.

No. 152.

*The Governor General to Mr. Stanhope.*

[No. 282.]

OTTAWA, 29th November, 1886.

SIR,—With reference to your telegraphic message of the 6th inst., asking to be furnished with a report in the case of the "Pearl Nelson" and "Everitt Steele," I have the honour to transmit herewith a copy of an approved Minute of the Privy Council of Canada, embodying a report of my Minister of Marine and Fisheries to which is appended a copy of the correspondence which has passed between the

Commissioner of Customs for Canada and the United States' Consul General at Halifax relating to the case of the American schooner "Pearl Nelson."

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honourable,  
EDWARD STANHOPE,  
&c., &c., &c.

436g (A.)

[Enclosure No. 1.]

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Governor General in Council on the 18th November, 1886.

The Committee of the Privy Council are in receipt of a telegram from the Right Honourable the Secretary of State for the Colonies in the words "United States Government protest against proceedings of Canadian authorities in case of 'Pearl Nelson' and 'Everitt Steele,' said to have put into Arichat and Shelburne respectively, for purposes sanctioned by convention—particulars by post, send report soon as possible."

The Minister of Marine and Fisheries, to whom the telegram was referred, submits a copy of a letter addressed by the Commissioner of Customs for Canada to the Consul General of the United States at Halifax, and also a copy of Mr. Phelan's reply thereto.

The Minister also submits that it is clear from Captain Kempt's affidavit that he was guilty of an infraction of the Customs regulations in allowing men to land from his vessel before she had been reported, and the Minister of Customs having favourably considered Captain Kempt's representations as to his ignorance of the Customs regulation, requiring that vessels should be reported before landing either men or cargo therefrom, has remitted the fine of \$200 which had been imposed in the case of the American schooner "Pearl Nelson."

The Minister further submits that it would appear from the report of the Collector of Customs that his remark that "he would seize the vessel" had reference solely to her violation of the Customs law, and that no evidence is given of any desire or intention of denying to the Captain of the "Pearl Nelson" any treaty privileges he was entitled to enjoy.

The Committee, concurring in the above, respectfully recommend that Your Excellency be moved to transmit a copy of this minute, if approved, to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
Clerk Privy Council, Canada.

[Enclosure No. 2.]

OTTAWA, 22nd October, 1886.

SIR,—I have the honour to acknowledge the receipt of your letter of the 11th inst., re seizure of the American schooner "Pearl Nelson," for a refraction of the Customs laws, &c.

The Commissioner of Customs' report in connection with this matter, which has been approved by the Minister of Customs, reads as follows:—

"The undersigned having examined this case, has come to the conclusion that the captain of the vessel did violate the provisions of sections 25 and 180 of the Customs Act, 1883, by landing a number of his crew before going to the Custom House to report. That his plea of having come into port solely from 'stress of weather' is inconsistent with the circumstances, and is denied by the Collector of Customs, who reports that 'the night was one of the finest and most moderate experienced there this summer,' and that 'his crew were landed early in the morning.' That even if the 'stress of weather' plea was sustained by facts, it would not exempt him from the legal requirement of reporting his vessel before 'breaking bulk' or landing his crew, and it is evident that there was nothing to hinder his reporting as the crew appear to have had no difficulty in handling the vessel's boats. That it was very easy for the crew, or any of them, to have taken valuable contraband goods ashore on their persons, in the absence of any Customs Officer at the landing place. Inasmuch, however, as there is no charge of actual smuggling preferred against the vessel, the

undersigned respectfully recommends that the deposit of \$200 be refunded, deducting therefrom any expenses incurred."

(Sd.) J. JOHNSON.

I trust the above may be considered a satisfactory answer to your letter referred to.

I have, &c.,

(Sd.)

W. G. PARMELEE,  
*Assistant Commissioner.*

M. E. PHELAN, Esq.,  
Consul General of the United States, Halifax, N. S.

[Enclosure No. 3.]

UNITED STATES' CONSULATE GENERAL,

HALIFAX, 2nd November, 1886.

SIR,—I have the honour to acknowledge the receipt of your communication of the 22nd ultimo, concerning the action of the Customs Department of Canada in the case of the American schooner "Pearl Nelson," and to say I was much pleased at the decision arrived at in that case. I have informed the Government of the United States that the fine, in the case referred to, was ordered to be refunded.

I have also to say that the Department of State, in acknowledging the receipt of a despatch from me, setting forth that you had placed all the papers, in the cases of the American schooners "Crittenden" and "Holbrook," in my hands for perusal, said, "the attention of Mr. Parmelee, in referring the matter to you, is appreciated. It shows a proper spirit."

I trust the Department of Customs will pass on the other cases as soon as possible.

I have, &c.,

(Sd.)

M. H. PHELAN,  
*Consul General.*

No. 153.

*The Governor General to Mr. Stanhope.*

[No. 283.]

OTTAWA, 29th November, 1886.

SIR,—I have the honour to transmit herewith, a copy of an approved Minute of the Privy Council of Canada, furnishing the report asked for in your telegraphic message of the 6th November, with reference to the detention of the American schooner "Everitt Steele" at Shelburne, N.S., for an infraction of the Customs regulations of the Dominion.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable

EDWARD STANHOPE,

&c, &c., &c.

[Enclosure No. 1.]

*CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Governor General in Council on the 18th November, 1886.*

The Committee of the Privy Council are in receipt of a telegram from the Right Honourable the Secretary of State for the Colonies, in the words: "United States' Government protest again proceedings of Canadian authorities in case of 'Pearl Nelson' and 'Everitt

Steele,' said to have put into Arichat and Shelburne, respectively, for purposes sanctioned by Convention. Particulars by post. Send report as soon as possible."

The Minister of Marine and Fisheries, to whom the telegram was referred, submits, that the schooner "Everitt Steele" appears, from the report of the Collector of Customs at Shelburne, to have been at that port on the 25th of March last, and sailed without reporting. On her return to Shelburne in September, she was detained by the Collector of Customs for an infraction of the Customs law.

The captain having assured the collector that he had been misled by the deputy harbour master, who informed him his vessel could remain in port twenty-four hours without entering, and that he had no intention of violating the Customs regulations, this statement was reported to the Minister of Customs at Ottawa, when the vessel was at once allowed to proceed to sea, and that no evidence is given of any desire or intention of denying to the captain of the "Everitt Steele" any Treaty privileges he was entitled to enjoy.

The Committee, concurring in the above, respectfully recommend that Your Excellency be moved to transmit a copy of this minute, if approved, to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. MCGEE,  
*Clerk, Privy Council, Canada.*

No. 154.

*Mr. Stanhope to the Governor General.*

[No. 260.]

DOWNING STREET, 2nd December, 1886.

MY LORD,—With reference to your despatch of the 9th ultimo, I have the honour to transmit to you, for communication to Your Lordship's Government, the enclosed Order of Her Majesty in Council of the 26th ultimo, assenting to a Reserved Bill of the Legislature of Canada, entitled "An Act further to amend the Act respecting Fishing by Foreign Vessels."

I have, &c.,

(Sd.) EDWARD STANHOPE.

Governor General the Most Honorable

The MARQUIS OF LANSDOWNE, G.C.M.G.,

&c., &c., &c.

[Enclosure No. 1.]

AT THE COURT AT WINDSOR, THE 26TH DAY OF NOVEMBER, 1886.

*Present:*

THE QUEEN'S MOST EXCELLENT MAJESTY,

Lord President,  
Earl of Rosslyn,

Viscount Cross,  
Lord Stanley of Preston.

Whereas by an Act passed in the 30th year of Her Majesty's Reign, entitled "An Act for the Union of Canada, Nova Scotia and New Brunswick and the Government thereof and for purposes connected therewith," it is amongst other things enacted that a Bill reserved for the signification of The Queen's pleasure shall not have any force unless and until within two years from the date on which it was presented to the Governor General for The Queen's Assent, the Governor General signifies by Speech or Message to each of the Houses of the Parliament or by Proclamation that it has received the Assent of The Queen in Council.

And whereas on the 2nd day of June, 1886, the Governor General of Canada reserved a certain Bill passed by the Senate and House of Commons of Canada, entitled "An Act further to amend the Act respecting Fishing by Foreign Vessels" for the signification of Her Majesty's pleasure thereon. And whereas the said Bill so reserved as aforesaid has been

laid before Her Majesty in Council, and it is expedient that the said Bill should be assented to by Her Majesty.

Now therefore, Her Majesty, in pursuance of the said Act and in exercise of the Powers thereby reserved to Her Majesty as aforesaid, doth by this present Order by and with the advice of Her Majesty's Privy Council declare Her assent to the said Bill.

And the Right Honourable Edward Stanhope, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Sd.) C. L. PEEL

No. 155.

*The Governor General to the Minister at Washington.*

[No. 81.]

OTTAWA, 3rd December, 1886.

SIR,—With reference to your telegram of the 17th ult., calling attention to your despatch No. 22 of the 28th October last, transmitting a copy of a letter from the Secretary of State of the United States, with its enclosures, requesting to be furnished with authentic information respecting the Canadian laws regulating the sale and exportation of fresh herring from Grand Manan Island, I have the honor to forward herewith, for communication to Mr. Bayard, a copy of an approved report of a Committee of the Privy Council to which is appended a copy of the Customs laws of Canada containing the desired information.

I have, &c.,

(Sd.) LANSDOWNE.

The Honourable

SIR L. S. WEST, K.C.M.G.,

&c., &c., &c.

[Enclosure No. 1.]

*CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Governor General in Council, on the 24th November, 1886.*

The Committee of the Privy Council having had their attention called, by a telegram dated 18th November, inst., from Her Majesty's Minister at Washington, to his former despatch of the 28th October, ultimo, enclosing a copy of a note from the Honourable Mr. Bayard, and enclosures, asking for authentic information respecting the Canadian laws regulating the sale and exportation of fresh herring from Grand Manan Island.

The Minister of Marine and Fisheries, to whom said despatch was referred for early report, states that any foreign vessel "not manned or equipped nor in any way prepared for taking fish" has full liberty of commercial intercourse in Canadian ports upon the same conditions as are applicable to regularly registered foreign merchant vessels, nor is any restriction imposed upon any foreign vessel dealing in fish of any kind different from those imposed upon foreign merchant vessels dealing in other commercial commodities.

That the regulations under which foreign vessels may trade at Canadian ports are contained in the Customs law of Canada (a copy of which is herewith) and which render it necessary, among other things, that upon arrival at any Canadian port a vessel must at once enter inward at the Customs House, and upon the completion of her loading clear outwards for her port of destination.

The Committee recommend that Your Excellency be moved to transmit a copy of this minute, together with a copy of the Customs laws as containing authentic information respecting Canadian laws regulating the sale and exportation of fresh herring, to Her Majesty's Minister at Washington, for the information of the Honourable Mr. Bayard, Secretary of State for the United States.

(Sd.)

J. J. McGEE,  
Clerk, Privy Council.

No. 156.

*The Governor General to Mr. Stanhope.*

[No. 286.]

OTTAWA, 4th December, 1886.

SIR,—In reply to your despatch of the 12th October last, transmitting a copy of a letter, with its enclosures, from the Foreign Office requesting to be furnished with a report in the case of the United States' fishing vessel "Crittenden," I have the honour to forward herewith a copy of an approved Minute of the Privy Council of Canada, embodying a report of my Minister of Marine and Fisheries, to which is appended a statement of the Customs Officer at Steep Creek, on the subject.

I have, &amp;c.,

(Sd.) LANSDOWNE.

The Right Honourable

EDWARD STANHOPE.

&amp;c., &amp;c., &amp;c.

[No. 421g.]

[Enclosure No. 1.]

*CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Governor General in Council on the 16th November, 1886.*

The Committee of the Privy Council have had under consideration a despatch dated 12th October, 1886, from the Secretary of State for the Colonies, transmitting a copy of a letter from Mr. Bayard, United States' Secretary of State, to the British Minister at Washington, calling attention to an alleged denial of the rights guaranteed by the Convention of 1818, in the case of the American fishing schooner "A. R. Crittenden" by the Customs Officer at Steep Creek, in the Straits of Canso, N.S.

The Minister of Marine and Fisheries, to whom the despatch and enclosure were referred, submits a statement of the Customs Officer at Steep Creek, and observes that the Captain of the "Crittenden" violated the Customs laws by neglecting to enter his vessel as requested by the Customs Officer, and in landing and shipping a man, clearly exceeded any treaty provision he was entitled to avail himself of.

It would appear that the remark made by the Customs Officer "that he would seize the vessel," had reference solely to the Captain's violation of the Customs regulations, and the Minister submits cannot be construed into a denial of any treaty privilege the master was entitled to enjoy.

The Committee, concurring in the above, respectfully recommend that Your Excellency be moved to inform the Right Honorable the Secretary of State for the Colonies in the sense of the report of the Minister of Marine and Fisheries.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
Clerk, Privy Council, Canada.

[Enclosure No. 2.]

STEEP CREEK, 1st November, 1886.

SIR—Yours of the 28th of October came to hand to-day, and in reply, can state to you that part of the crew of the schooner "Crittenden" came on shore at Steep Creek and landed their barrels and filled them with water. I went direct to the men who were filling the barrels and told them to come and enter before taking wood and water. They said they would not enter or make any report. I told them that I would seize the schooner "Crittenden" for violating the Customs Law. They said they would risk that, as the schooner was now out of the way, about three miles from my station down the Strait, and it was impossible for me to board the vessel. They also landed a man the same day with his effects, and on their return from Gloucester to the Bay St. Lawrence they shipped a man. Was looking out for the vessel, but could not catch her. I reported the case to the Collector of Customs at Port Hawkesbury, and on the schooner "Crittenden's" return from Bay St. Lawrence she was seized, and Collector Bourinot got the affidavits of the captain of the said schooner, and

also of some of the crew, which he forwarded to the Department. I was in the office at the time when Collector Bourinot received a telegram from the Department to release the schooner "Crittenden," on the deposit of four hundred dollars.

I have, &c.,

(Sd.) JAMES H. CARR.  
*Pro Collector.*

The DEPUTY MINISTER OF FISHERIES,  
Ottawa.

No. 157.

*Governor General to Mr. Stanhope.*

[No. 288.]

OTTAWA, 7th December, 1886.

SIR,—I have the honour to forward herewith, for your information, a copy of a despatch from Her Majesty's Minister at Washington, transmitting a copy of a letter from the Secretary of State of the United States, with its enclosures, asking to be furnished with authentic information respecting Canadian laws regulating the sale and exportation of fresh herring from Grand Manan Island, together with a copy of my reply thereto.

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EDWARD STANHOPE,  
&c., &c., &c.

No. 158.

*Governor General to Mr. Stanhope.*

[No. 290.]

OTTAWA, 7th December, 1886.

SIR,—I have the honour to forward herewith, for your information, a copy of a letter from the Department of Fisheries, stating that the United States' fishing vessel "Highland Light," seized on the 1st September last, for fishing within the three-mile limit, was condemned and ordered to be sold on the 12th inst., by the Vice-Admiralty Court at Charlottetown, P.E.I.

It is understood that no defence was entered to the suit.

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honourable  
EDWARD STANHOPE.

[Enclosure No. 1.]

*Department of Fisheries to the Governor General's Secretary.*

OTTAWA, 7th December, 1886.

SIR,—I have the honour to state, for the information of His Excellency the Governor General, that this Department was advised by telegraph, under date the 1st instant, from Mr. E. J. Hodgson, Q.C., the counsel for the Government in the case of *The Queen vs. the schooner "Highland Light,"* seized on the 1st September last, for fishing within the three-

mile limit, that the Vice-Admiralty Court at Charlottetown, Prince Edward Island, had condemned the vessel referred to, and ordered her to be sold on the 12th instant.

The Department understands that no defence was entered to the suit.

I have, &c.,

(Sd.)

JOHN TILTON,  
*Deputy Minister of Fisheries.*

CAPTAIN H. STREATFEILD,  
Military Secretary,  
Government House, Ottawa.

No. 159.

*Minister at Washington to the Governor General.*

[No. 102.]

WASHINGTON, 8th December, 1886.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch No. 81 of the 3rd instant, and to inform Your Excellency that in obedience to the instructions of Her Majesty's Government I have communicated the information therein contained respecting the herring fisheries of Grand Manan Island to the United States' Government.

I have, &c.,

(Sd.)

L. S. SACKVILLE WEST.

His Excellency  
The MARQUIS OF LANSDOWNE, G.C.M.G.  
&c., &c., &c.

No. 160.

*Colonial Office to the Governor General.*

[No. 272.]

DOWNING STREET, 16th December, 1886.

MY LORD,—With reference to my despatch, No. 218, of the 6th October, I have the honour to transmit to you a copy of a letter, with its enclosures, from the Foreign Office relative to the case of the United States' fishing vessel "Mollie Adams."

I request that you will obtain from your Government, and forward to me as soon as possible, a report on the circumstances of the case.

I have, &c.,

(Sd.)

EDWARD STANHOPE.

Governor General  
The Most Honorable  
The MARQUIS OF LANSDOWNE, G.C.M.G.,  
&c., &c., &c.

[Enclosure No. 1.]

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 15th December, 1886.

SIR,—With reference to my letter of the 4th of October, I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a Despatch from Her Majesty's Minister at Washington enclosing a copy of a further note from the United States' Secretary of State protesting against the action of the Canadian authorities with regard to the United States' fishing schooner "Mollie Adams."

I am to request that the Dominion Government may be asked to furnish a report as soon as possible upon the allegations now made by the master of the United States' vessel, as well as the previous note from Mr. Bayard on the subject enclosed in my letter of the 4th of October last.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Sir L. West to the Earl of Iddesleigh.*

[Treaty No. 99.]

WASHINGTON, 2nd December, 1886.

MY LORD,—I have the honour to enclose to Your Lordship herewith a further note which I have received from the Secretary of State complaining in the usual strong terms, of the conduct of the Canadian authorities in the case of the American fishing schooner "Mollie Adams," the captain of which vessel states in a letter to the Secretary of State, copy of which is enclosed, that he had 17 men on board whom he had rescued from the British schooner "Neskillita" of Lockeport (N. S.)

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

The Earl of Iddesleigh.  
Etc., Etc., Etc.

[Enclosure No. 3.]

*Mr. Bayard to Sir L. S. West.*

DEPARTMENT OF STATE,

WASHINGTON, 1st December, 1886.

SIR,—As possessing an additional and very disagreeable bearing upon the general subject of the harsh treatment of American fishing vessels during the season by the local authorities of the Maritime Provinces of Her Majesty's Dominion of Canada, I have the honour to send you herewith a copy of a letter addressed to me under date of the 12th ultimo, by Captain Solomon Jacobs, master of the American fishing schooner "Mollie Adams," of Gloucester, Mass. You will share, I doubt not, the regret I feel at such churlish and inhospitable treatment of a vessel which had freely and with great loss and inconvenience rendered such essential service to the suffering and imperilled crew of a Nova Scotia vessel. But for his generous act, Captain Jacobs would have had no occasion to put into Malpeque, or, subsequently when short of provisions, into Port Medway. As his narrative shows, the local authorities of Malpeque treated him with coldness and rudeness, making no provision to receive the Nova Scotian crew he had saved from such immediate danger, even causing him to incur a pecuniary burden in completion of his humane rescue, and even treating the landing of the property so saved from the wreck of the Nova Scotian vessel on her own shores, as not lawful for an American fishing vessel "within the three-mile limit."

The treatment of Captain Jacobs at Port Medway is a fitting sequel to that received by him at Malpeque. Having undergone fourteen days' detention in the latter port, and having shared his purse and slender stock of provisions with the men he had rescued, he put to sea, when, his supplies falling short by reason of his charitable action, he asked leave to purchase at Port Medway half a barrel of flour, or enough provisions to take his vessel and crew home. With full knowledge of the cause of Captain Jacob's dearth of provisions, even this the Collector at Port Medway absolutely refused and threatened Captain Jacobs with the seizure of his vessel "if he bought anything whatever." The urgent need of supplies in which Captain Jacobs stood is shown by the fact that although the run with favourable weather from Port Medway to his home port, Gloucester, Mass., only occupied three days, his crew were on half rations for two days and without food for one day of that time. It is painful to conjecture what might have been their distress had the "Mollie Adams" encountered storms or head winds.

I am confident that Her Majesty's Government, than which none has more generously fulfilled the obligations of the unwritten code of seafaring humanity, will hasten to rebuke the treatment of Captain Jacobs at the hands of the local authorities of Nova Scotia, by exhibiting gratitude for his act in saving 17 of their own people from death, and tendering him compensation for the delays and expenses he has undergone through the breaking up of his legitimate fishing venture. The closing part of Captain Jacob's letter may serve to show the irresponsible and different treatment he was subjected to in the several ports he visited, where the only common feature seems to have been a surly hostility.

At Port Hood, for instance, Captain Jacobs being sick, his brother landed and reported in his stead, and, after paying the regular fee, was told that his report was a nullity, and that the vessel would be liable to penalty for unauthorized landing of her crew, unless her Captain reported in person, who although ill he was compelled to do, and the fee was thereupon levied a second time. This is a small matter measured by the amount of the fee, but it is surely discreditable, and has a tendency which cannot be too much deplored. In my late correspondence I have treated of the necessary and logical results of permitting so irritating and unfriendly a course of action, and I will not therefore now enlarge on this subject.

I have, &c.,

(Sd.) T. F. BAYARD.

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[Enclosure No. 4.]

*Mr. Solomon Jacobs to Mr. Bayard.*

GLOUCESTER, 12th November, 1886.

SIR,—I would most respectfully ask your attention to the following facts, as showing the spirit and manner of the application of law on the part of the officials of the Dominion of Canada.

On or about the 26th September, when off Malpeque, Prince Edward Island, I fell in with the British schooner "Neskilita," of Lockeport, Nova Scotia, which had run on Malpeque Bar in making the harbour. It was blowing very heavy, sea running high. The crew was taken off by my vessel about twelve o'clock at night. There were seventeen men in all. We took care of them and fed them for three days. The "Neskilita" became a total wreck. We saved some of the material.

The cutter "Critic," Captain McLaren, one of the Canadian cruisers, was lying in the harbour of Malpeque. The Captain boarded my vessel, and I reported to him the facts of the wreck and the condition of the men. They had saved a portion of their clothing. He neither offered to care for the wrecked crew, to feed them nor to give them any assistance whatever. Having some of the wrecked material on board I asked the Captain of the cutter for permission to land it. He referred me to the local collector. I went to the collector and he referred me back to the Captain of the cutter. As the cutter had gone out the Captain of the "Neskilita" assumed the responsibility and took the things ashore. The Captain of the cutter told me that I could put the saved material on board a Nova Scotia vessel if I went outside of the three-mile limit to do it.

I endeavoured to get some of the people on shore to take the wrecked crew, but no one would do it unless I would be responsible for their board. Finally I gave the crew \$60, enough to pay their passage home on the cars and also gave them provisions to last during their journey. Malpeque is a barred harbour and it is only in smooth water that it is safe to go out over the bar, and my vessel drawing 14 feet of water and there was only 14 feet of water on the bar, it was impossible for me to go out. By being detained in port in disposing of this wrecked crew, I lost over 10 days of valuable time before I could get out to fish and during that time the fleet took large quantities of mackerel. Having to feed so many on my vessel left me short of provisions and in a short time afterwards I put into Port Medway and stated the circumstances, and asked permission to buy half a barrel of flour or enough provisions to take my vessel and crew home. This was absolutely refused and the Collector *threatened* me that if I bought anything whatever he would seize my vessel. I was obliged to leave without obtaining and came home in three days on short rations, a distance of 300 miles. The wind and weather being favourable we had a good passage, but yet we were without provisions for one day before we arrived home. I wish to state most emphatically that the Officials differ in their construction of our rights. Fees are different in every port, and as there is no standard of right fixed by our own Government, the fishermen are at the mercy of a class of officials hostile to them and their business, and with but little knowledge of law or its application. For instance, at Souris, P.E.I., 15 cents is charged for reporting; at Port Mulgrave, N.S., 50 cents is charged. At Port Hood, I being sick, my brother went to the Custom House to

report. The official charged him 25 cents and told him that unless the captain reported in person the report was invalid, that men from the vessel would not be allowed ashore unless the captain reported. In the afternoon of the same day I was able to go to the office and was charged 25 cents for my report, making 50 cents.

In the matter of anchorage fees, &c., at Port Mulgrave, N.S., I paid \$1.50; at Malpeque, \$1.00; at Sydney, \$1.17. At some ports we have to pay anchorage fees every time we go in, as at Halifax. At others twice for the season. Now I would most respectfully state that the official service throughout is actuated, apparently, from a principle of annoyance, wherever and whenever it can be so applied; that there is only harmony of action in this regard alone, and that local laws and regulations are enforced against us, without regard to any rights we may have under treaty.

That the effect to this enforcement is not to promote, but to interfere and to limit by unjust pains, fees and penalties the right of shelter, obtaining wood and water, and making of repairs, guaranteed by the Treaty of 1818; that, instead of the restriction contemplated, the local laws make a technical obligation that is without their province or power, and enforce penalties that should never been admitted or allowed by our Government. And I would pray that in the case recited, and many others that can be shown, if required, we may be protected from local laws and their enforcement that abridge our rights and have never received the sanction of the two great contracting powers in the construction and agreement of the Treaty of 1818.

I have, &c.,

(Sd.) SOLOMON JACOBS.

[Enclosure No. 5.]

NORTH SYDNEY, C. B., 13th October, 1886.

"Mollie Adams," 117 tons. Capt. Jacobs to Harbour Commissioners. To amount of harbour dues, \$1.17.

Received payment.

(Sd.) M. J. THUAN.

DOMINION OF CANADA HARBOUR DUES.

MALPEQUE, P. E. I., 1886.

Received from Solomon Jacobs, master of the schooner "Mollie Adams," of 117 tons register, the sum of one dollar, being harbour dues at this port.

(Sd.) EDWARD LARKINS,  
*Harbour Master.*

DOMINION OF CANADA HARBOUR DUES.

PORT MULGRAVE, N. S., 30th August, 1886.

Received from Soloman Jacobs, master of the schooner "Mollie Adams," from North Bay, 117 tons register, the sum of \$1.50 cents, being harbour dues at this port.

(Sd.) DUNCAN G. GILLIES,  
*Harbour Master.*

{ Seal. }

No. 161.

*Mr. Stanhope to the Governor General.*

[No. 274.]

DOWNING STREET, 16th December, 1886.

MY LORD,—I have the honour to transmit to Your Lordship, for communication to your Government, a copy of a letter from the Foreign Office, with its enclosures, respecting the alleged improper conduct of authorities in the Dominion in dealing

with the United States' fishing vessels "Laura Sayward" and "Jennie Seaverns," and I request that I may be furnished with a report on the subject for communication to the Government of the United States.

I have, &c.,  
(Sd.) EDWARD STANHOPE.

His Excellency  
THE GOVERNOR GENERAL.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 8th December, 1886.

SIR,—I am directed by the Earl of Iddesleigh to transmit to you copy of a despatch from Her Majesty's Minister at Washington enclosing notes which he has received from Mr. Bayard protesting against the conduct of the Dominion authorities in their dealings with the United States' fishing vessels, "Laura Sayward" and "Jennie Seaverns," and I am to request that Mr. Secretary Stanhope will procure a report on these cases from the Canadian Government with a view to its communication to the Government of the United States.

am, &c.,  
(Sd.) J. PAUNCEFOTE.

THE UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Sir L. West to Lord Iddesleigh.*

[Treaty No. 96.]

WASHINGTON, 12th November, 1886.

MY LORD,—I have the honour to enclose to Your Lordship, herewith, copy of a note which I have received from the Secretary of State, together with copies of the statements accompanying it, describing the inhospitable and inhuman conduct of the Collector of the Port of Shelburne, Nova Scotia, and the conduct of Captain Quigley, commanding the Canadian cruiser "Terror," in their dealings with the American fishing vessels "Laura Sayward" and "Jennie Seaverns."

I have, &c.,  
(Sd.) L. S. SACKVILLE WEST.

THE EARL OF IDDESLEIGH, G.C.B.  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE,  
WASHINGTON, 11th November, 1886.

SIR,—I have the honour to enclose herewith copies of the statements with affidavits from Captain Medeo Rose, master of the schooner "Laura Sayward," of Gloucester, Mass., and of Captain Joseph Tupper, master of the schooner "Jennie Seaverns," also of Gloucester, forwarded to me by the Collector of the Port of Gloucester, under date of 5th inst.

The first impressively describes the inhospitable and inhuman conduct of the Collector of the Port of Shelburne, N.S., in refusing to allow Captain Rose to buy sufficient food for himself and his crew to take them home, besides unnecessarily retaining his papers and thus preventing him, with a wholly inadequate supply of provisions, from proceeding on his voyage

The second complaint is of Captain Quigley, commanding the Canadian cruiser "Terror," in not only preventing Captain Tupper from landing to visit his relatives in Liverpool, N.S.,

but even forbidding his relatives from coming on board his vessel to see him, and likewise placing a guard on board of her to ensure that result.

While I need not comment further than I have done already in previous notes on the unjust and unwarrantable acts of the Dominion officials of late towards our fishermen, of which the instances now presented are but repetitions, I must notice the new phase of Captain Quigley's abuse of authority in actually making Captain Tupper a prisoner on board of his own vessel, and in preventing his relatives, whom he states he had not seen for many years, from meeting him.

Such conduct, apart from all its legal and international aspects, is wholly unworthy of any one entrusted with the execution of a public duty and inconsistent with the national reputation for humanity and courtesy of an officer in Her Majesty's service.

I have, &c.,

(Sd.)

T. F. BAYARD.

The Honorable

Sir L. S. WEST, K.C.M.G.,

&c., &c., &c.

[Enclosure No. 4.]

I, Medeo Rose, Master of schooner "Laura Sayward," of Gloucester, being duly sworn, do depose and say that on Saturday, 2nd October, being then on Western Bank on a fishing trip, and being short of provisions, we hove up our anchor and started for home. The wind was blowing almost a gale from the north-west and being almost dead ahead, we made slow progress on our voyage home. On Tuesday, 5th October, we made Shelburne, N. S., and arrived in that harbour about 8 p.m. on that day short of provisions, water, and oil to burn. On Wednesday I sailed for the inner harbour of Shelburne, arriving at the town about 4 p.m. On going ashore I found the Custom House closed, and hunted up the Collector and entered my vessel, and asked permission from him to buy 7 pounds sugar, 3 pounds coffee,  $\frac{1}{2}$  to 1 bushel of potatoes and 2 pounds of butter or lard or pork, and oil enough to last us home, and was refused. I stated to him my situation, short of provisions and a voyage of 250 miles before, and pleaded with him for this slight privilege, but it was of no avail. I then visited the American Consul and asked his assistance, and found him powerless to aid me in this matter. The Collector of Customs held my papers until the next morning although I asked for them as soon as I found I could not buy any provisions, say about  $1\frac{1}{2}$  hours after I entered, but he refused to give them to me until the next morning. Immediately on receiving my papers on Thursday morning I started for home, arriving on Sunday. I think the treatment I received harsh and cruel, driving myself and crew to sea with a scant supply of provisions, we having but little flour and water, and liable to be buffeted about for days before reaching home.

(Sd.)

MEDEO ROSE.

MASS., ESSEX, S.S., }  
13th October, 1886. }

Personally appeared Medeo Rose and made oath to the truth of the above statement.

Before me,

[SEAL]

(Sd.)

AARON PARSONS.

Notary Public.

[Enclosure No. 5.]

I, Joseph Tupper, Master of the schooner "Jennie Seaverns," of Gloucester, being duly sworn, do depose and say that on Thursday, 28th October, while on my passage home from a fishing trip, the wind blowing a gale from S.E., and a heavy sea running, I was obliged to enter the harbour of Liverpool N.S. for shelter. Immediately on coming to anchor, was boarded by Captain Quigley of Canadian cruiser "Terror," who ordered me to go in shore at once and enter at the Customs House, to which I replied that such was my intention. He gave me permission to take two men in the boat with me, but they must remain in the boat and not step on shore. I asked Captain Quigley if I could, after entering, visit some of my relations who resided in Liverpool, and whom I had not seen for many years. This privilege was denied me. After entering, having returned to my vessel, some of my relatives came off to see me. When Captain Quigley saw their boat alongside of my vessel, he sent an officer and boat's

crew who ordered them away, and at sundown he placed an armed guard on board of our vessel, who remained on board all night, and was taken off just before we sailed in the morning.

I complied with the Canadian laws and had no intention or desire to violate them in any way; but to be made a prisoner on board my own vessel, and treated like a suspicious character, grates harshly upon the feelings of an American seaman, and I protest against such treatment, and respectfully ask from my own Government, protection from such unjust, unfriendly and arbitrary treatment.

(Sd.) JOSEPH TUPPER.

MASS. ESSEX, s.s. }  
4th Nov., 1886. }

Personally appeared Joseph Tupper and made oath to the truth of the above statement.

Before me,

[L.S.]

(Sd.) AARON PARSONS, N.P.

No. 162.

*Sir L. West to the Marquis of Lansdowne.*

[No. 107.]

WASHINGTON, 17th December, 1886.

MY LORD,—I have the honour to transmit to Your Excellency herewith, copies of the correspondence relating to the rights of American fishermen in British North American waters, which has been presented to Congress.

Vide U. S.  
House of Rep-  
resentatives Ex.  
Doc. No. 19, 49th  
Congress, 2nd  
Session.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency

The MARQUIS OF LANSDOWNE, K.C.M.G.,  
&c., &c., &c.,

No. 163.

*The Marquis of Lansdowne to Mr. Stanhope.*

[No. 296.]

OTTAWA, 20th December, 1886.

SIR,—I had the honour of receiving your despatch No. 244 of the 22nd November, in regard to the cases of the "Everitt Steele" and "Pearl Nelson" recently detained at Shelburne and Arichat, Nova Scotia, for non-compliance with the Customs Regulations of the Dominion.

2. The circumstances under which the conduct of these vessels attracted the attention of the Customs authorities were set out in the Privy Council Orders of the 1st and 18th November, certified copies of which were forwarded to you under cover of my Despatches Nos. 282 and 283 of the 29th of November.

Nos. 152 and  
153.

3. The information contained in these documents was obtained in order to comply with the request for a report on these two cases which you had addressed to me by telegram on a previous date.

I have now carefully examined the fuller statements made by Mr. Bayard, both as to the facts and as to the considerations by which the conduct of the local officials should, in his opinion, have been governed. You will, I think, find on reference to the Privy Council Orders already before you, that the arguments advanced by Mr. Bayard have been sufficiently met by the observations of my Minister of Marine and Fisheries whose reports are embodied in those orders.

4. It is not disputed that the "Everett Steele" was in Shelburne harbour on the 25th March, and sailed thence without reporting. In consequence of this omission on the Master's part, his vessel was, on her return to Shelburne in September, detained by the Collector. The Master having explained that his presence in the harbour had been occasioned by stress of weather and that his failure to report was inadvertent, and this explanation having been telegraphed to the Minister at Ottawa, the vessel was at once allowed to proceed to sea; her release took place at noon on the day following that of her detention.

5. In the case of the "Pearl Nelson" it is not denied that nine of her crew were landed in Arichat harbour at a late hour on the evening of her arrival and before the Master had reported to the Custom House. It is obvious that if men were to be allowed to go on shore under such circumstances without notification to the authorities, great facilities would be offered for landing contraband goods, and there can be no question that the Master by permitting his men to land was guilty of a violation of sections 25 and 180 of the Customs Act. There seems to be reason to doubt his statement that he was driven into Arichat by stress of weather, but be this as it may the fact of his having entered the harbour for a lawful purpose would not carry with it a right to evade the law to which all vessels frequenting Canadian ports are amenable. In this case as in that of the "Everett Steele" already referred to, the statement of the Master that his offence was due to inadvertence was accepted and the fine imposed at once remitted.

I observe that in his despatch relating to the first of these cases, Mr. Bayard insists with much earnestness upon the fact that certain "Prerogatives" of access to the territorial waters of the Dominion were specially reserved under the Convention of 1818 to the fishermen of the United States, and that a vessel entering a Canadian harbour for any purpose coming within the terms of Art. I of that Convention has as much right to be in that harbour as she would have to be upon the high seas, and he proceeds to institute a comparison between the detention of the "Everett Steele" and the wrongful seizure of a vessel on the high seas upon the suspicion of being engaged in the slave trade.

Mr. Bayard further calls attention to the special consideration to which from the circumstances of their profession the fishermen of the United States are, in his opinion, entitled, and he dwells upon the extent of the injury which would result to them if they were debarred from the exercise of any of the rights assured to them by Treaty or Convention.

I observe also that in Sir Julian Pauncefote's letter enclosed in your despatch it is stated that the Secretary of State for Foreign Affairs wishes to urge upon the Dominion Government the great importance of issuing stringent instructions to its officials not to interfere with any of the privileges expressly reserved to United States' fishermen under Article I of the Convention of 1818.

I trust that the explanations which I have already been able to give in regard to the cases of these vessels, will have satisfied you that the facts disclosed do not show any necessity for the issuing of instructions other than those already circulated to the local officials entrusted with the execution of the Customs and Fishery Laws.

There is certainly no desire on the part of my Government (nor I believe does the conduct of the local officials justify the assumption that such a desire exists) to curtail in any respect the privileges enjoyed by United States' fishermen in Canadian waters. It cannot, on the other hand, be contended that because these privileges exist and are admitted by the Government of the Dominion, those who enjoy them are to be allowed immunity from the regulations to which all vessels resorting to Canadian waters are without exception subjected under the Customs Act of 1883 and the different statutes regulating the fisheries of the Dominion.

In both of the cases under consideration there was a clear and undoubted violation of the law and the local officials would have been culpable if they had omitted to notice it. That there was no animus on their part or on that of the Canadian Government, is, I think, clearly proved by the promptitude with which the circumstances were investigated and the readiness shown to overlook the offence and to remit the

penalty incurred as soon as proof was forthcoming that the offence had been unintentionally committed. In support of this view I would draw your attention to the letter [See enclosure to my despatch No. 282 of the 29th of November] of Mr. Phelan the Consul General for the United States at Halifax who has expressed his own satisfaction at the action of the authorities in the case of the "Pearl Nelson," and who also refers to a communication received by him from the Department of State in which it is stated that the conduct of the Assistant Commissioner of Customs in dealing with two other cases of a somewhat similar complexion "shows a proper spirit."

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honorable  
EDWARD STANHOPE.

No. 164.

*Sir L. West to Lord Lansdowne.*

22nd December, 1886.

I send by post to-day, in compliance with instructions from the Secretary of State for Foreign Affairs, a copy of a note with a proposal for an arrangement of the fisheries question, addressed by the United States' Secretary, of State to the United States' Minister at London.

(Sd.) WEST.

No. 165.

*Sir L. West to Lord Lansdowne.*

[No. 169.]

WASHINGTON, 22nd December, 1886.

MY LORD,—In obedience to telegraphic instructions which I have received from the Earl of Iddesleigh, I have the honour to enclose to Your Excellency herewith, copy of a note from the Secretary of State to Mr. Phelps which has been given to me by Mr. Bayard. This note contains a proposal for the settlement of the fisheries question.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency  
The MARQUIS OF LANSDOWNE, K.C.M.G.,  
&c. &c. &c.

[Enclosure No. 1.]

*Mr. Bayard to Mr. Phelps.*

[No. 459.]

DEPARTMENT OF STATE,

WASHINGTON, 15th November, 1886.

SIR,—The season for taking mackerel has now closed, and I understand the Marine Police Force of the territorial waters in British North America has been withdrawn, so that no further occasion for the administration of a strained and vexatious construction of the Convention of 1818 between the United States and Great Britain, is likely for several months at least.

During this period of comparative serenity, I earnestly hope that such measures will be adopted by those charged with the administration of the respective Governments as will

prevent the renewal of the proceedings witnessed during the past fishing season in the ports and harbours of Nova Scotia, and at other points in the Maritime Provinces of the Dominion, by which citizens of the United States engaged in open-sea fishing were subjected to much unjust and unfriendly treatment by the local authorities in those regions, and thereby not only suffered serious loss in their legitimate pursuit, but, by the fear of annoyance, which was conveyed to others likewise employed, the general business of open-sea fishing by citizens of the United States was importantly injured.

My instructions to you during the period of these occurrences have from time to time set forth their regrettable character, and they have also been brought promptly to the notice of the Representative of Her Majesty's Government at this capital.

These representations, candidly and fully made, have not produced those results of checking the unwarranted interference (frequently accompanied by rudeness and an unnecessary demonstration of force) with the rights of our fishermen guaranteed by express treaty stipulations, and secured to them—as I confidently believe—by the public commercial laws and regulations of the two countries, and which are demanded by the laws of hospitality to which all friendly civilized nations owe allegiance. Again I beg that you will invite Her Majesty's counsellors gravely to consider the necessity of preventing the repetition of conduct on the part of the Canadian officials which may endanger the peace of two kindred and friendly nations.

To this end, and to ensure to the inhabitants of the Dominion the efficient protection of the exclusive rights to their inshore fisheries, as provided by the Convention of 1818, as well as to prevent any abuse of the privileges reserved and guaranteed by that instrument forever to the citizens of the United States engaged in fishing,—and responding to the suggestion made to you by the Earl of Iddesleigh in the month of September last that a *modus vivendi* should be agreed upon between the two countries to prevent encroachment by American fishermen upon the Canadian inshore fisheries, and equally to secure them from all molestation when exercising only their just and ancient rights,—I now enclose the draft of a memorandum which you may propose to Lord Iddesleigh, and which, I trust, will be found to contain a satisfactory basis for the solution of existing difficulties and assist in securing an assured, just, honourable, and, therefore, mutually satisfactory settlement of the long vexed question of the North Atlantic fisheries.

I am encouraged in the expectation that the propositions embodied in the memorandum referred to will be acceptable to Her Majesty's Government, because, in the month of April, 1866, Mr. Seward, then Secretary of State, sent forward to Mr. Adams, at that time United States' Minister in London, the draft of a protocol which in substance coincides with the first article of the proposal now sent to you, as you will see by reference to Vol. I of the United States' Diplomatic Correspondence for 1866, page 98 *et seq.*

I find that, in a published instruction to Sir F. Bruce, then Her Majesty's Minister in the United States, under date of May 11, 1866, the Earl of Clarendon, at that time Her Majesty's Secretary of State for Foreign Affairs, approved them, but declined to accept the final proposition of Mr. Seward's protocol, which is not contained in the memorandum now forwarded.

Your attention is drawn to the great value of these three propositions, as containing a well-defined and practical interpretation of Article 1 of the Convention of 1818, the enforcement of which co-operatively by the two Governments, it may reasonably be hoped, will efficiently remove those causes of irritation of which variant constructions hitherto have been so unhappily fruitful.

In proposing the adoption of a width of ten miles at the mouth as a proper definition of the bays in which, except on certain specified coasts, the fishermen of the United States are not to take fish, I have followed the example furnished by France and Great Britain in their Convention signed at Paris on the 2nd of August, 1839. This definition was referred to and approved by Mr. Bates, the Umpire of the Commission under the Treaty of 1853, in the case of the United States' fishing schooner "Washington," and has since been notably approved and adopted in the convention signed at The Hague in 1882, and subsequently ratified in relation to fishing in the North Sea, between Germany, Belgium, Denmark, France, Great Britain, and the Netherlands.

The present memorandum also contains provisions for the usual commercial facilities allowed everywhere for the promotion of legitimate trade, and nowhere more fully than in British ports and under the commercial policies of that nation. Such facilities cannot with any show of reason be denied to American fishing vessels when plying their vocations in deep-sea fishing grounds in the localities open to them equally with other nationalities. The Convention of 1818 inhibits the "taking, drying or curing fish" by American fishermen in certain waters and on certain coasts, and when these objects are effected, the inhibitory force is exhausted. Everything that may presumably guard against an infraction of

these provisions will be recognized and obeyed by the Government of the United States, but should not be pressed beyond its natural force.

By its very terms and necessary intendment, the same treaty recognizes the continuance permanently of the accustomed rights of American fishermen, in those places not embraced in the renunciation of the treaty, to prosecute the business as freely as did their forefathers.

No construction of the Convention of 1818 that strikes at or impedes the open sea fishing by citizens of the United States, can be accepted, nor should a treaty of friendship be tortured into a means of such offence, nor should such an end be accomplished by indirection. Therefore, by causing the same port regulations and commercial rights to be applied to vessels engaged therein as are enforced relative to other trading craft, we propose to prevent a ban from being put upon the lawful and regular business of open-sea fishing.

Arrangements now exist between the Governments of Great Britain and France, and Great Britain and Germany, for the submission in the first instance of all cases of seizure to the joint examination and decision of two discreet and able commanding officers of the navy of the respective countries, whose vessels are to be sent on duty to cruise in the waters to be guarded against encroachment. Copies of these agreements are herewith enclosed for reference. The additional feature of an Umpire in case of a difference in opinion, is borrowed from the terms of Article 1, of the Treaty of June 5, 1854, between the United States and Great Britain.

This same Treaty of 1854 contains in its first article provision for a joint Commission for marking the fishing limits, and is therefore a precedent for the present proposition.

The season of 1886 for inshore fishing on the Canadian coasts has come to an end, - and assuredly no lack of vigilance or promptitude in making seizures can be ascribed to the vessels of the Marine Police of the Dominion. The record of their operations discloses but a single American vessel found violating the inhibitions of the Convention of 1818, by fishing within three marine miles of the coast. The numerous seizures made have been of vessels quietly at anchor in established ports of entry, under charges which, up to this day, have not been particularized sufficiently to allow of an intelligent defence. Not one has been condemned after trial and hearing, but many have been fined without hearing or judgment, for technical violations of alleged commercial regulations, although all commercial privileges have been simultaneously denied to them. In no instance has any resistance been offered to Canadian authority, even when exercised with useless and irritating provocation.

It is trusted that the agreement now proposed may be readily accepted by Her Majesty's Ministry.

Should the Earl of Iddesleigh express a desire to possess the text of this despatch, in view of its intimate relation to the subject-matter of the memorandum and as evidencing the sincere and cordial disposition which prompts this proposal, you will give His Lordship a copy.

I am, Sir, your obedient servant,

(Sd.) T. F. BAYARD.

EDWARD J. PHELPS, Esq.,

&c., &c., &c.

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[Enclosure No. 2.]

*PROPOSAL for Settlement of all Questions in Dispute in Relation to the Fisheries on the North-Eastern Coasts of British North America.*

Whereas, in the 1st Article of the Convention between the United States and Great Britain, concluded and signed in London on the 20th of October, 1818, it was agreed between the High Contracting Parties "that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours and creeks, from Mount Joly on the southern coast of Labrador, to and through the Straits of Belle Isle; and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland, here above described, and of the coast of Labrador; but so soon as the same, or any portion thereof,

shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors or possessors of the ground ;" and was declared that "the United States hereby renounce forever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America not included within the above-mentioned limits: Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood and obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them ;" and whereas differences have arisen in regard to the extent of the above mentioned renunciation, the Government of the United States and Her Majesty the Queen of Great Britain, being equally desirous of avoiding further misunderstanding, agree to appoint a mixed commission for the following purposes, namely :—

1. To agree upon and establish by a series of lines the limits which shall separate the exclusive from the common right of fishing on the coasts and in the adjacent waters of the British North American colonies, in conformity with the 1st Article of the Convention of 1818, except that the bays and harbours from which American fishermen are in the future to be excluded, save for the purposes for which entrance into bays and harbours is permitted by said article, are hereby agreed to be taken to be such bays and harbours as are ten or less than ten miles in width, and the distance of three marine miles from such bays and harbours shall be measured from a straight line drawn across the bay or harbour, in the part nearest the entrance, at the first point where the width does not exceed ten miles ; the said lines to be regularly numbered, duly described, and also clearly marked on charts prepared in duplicate for the purpose.

2. To agree upon and establish such regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said Convention to the fishermen of the United States.

3. To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment with as little expense as possible, for the violators of rights and the transgressors of the limits and restrictions which may be hereby adopted :

Provided, however, that the limits, restrictions and regulations which may be agreed upon by the said commission shall not be final, nor have any effect, until so jointly confirmed and declared by the United States and Her Majesty the Queen of Great Britain, either by treaty or by laws mutually acknowledged.

## ARTICLE II.

Pending a definitive arrangement on the subject, Her Britannic Majesty's Government agree to instruct the proper colonial and other British officers to abstain from seizing or molesting fishing vessels of the United States unless they are found within three marine miles of any of the coasts, bays, creeks, and harbours of Her Britannic Majesty's dominions in America, there fishing, or to have been fishing, or preparing to fish within those limits, not included within the limits within which, under the Treaty of 1818, the fishermen of the United States continue to retain a common right of fishery with Her Britannic Majesty's subjects.

## ARTICLE III.

For the purpose of executing Article I of the Convention of 1818, the Government of the United States and the Government of Her Britannic Majesty hereby agree to send each to the Gulf of St. Lawrence a national vessel, and also one each to cruise during the fishing season on the southern coasts of Nova Scotia. Whenever a fishing vessel of the United States shall be seized for violating the provisions of the aforesaid Convention by fishing or preparing to fish within three marine miles of any of the coasts, bays, creeks, and harbours of Her Britannic Majesty's dominions included within the limits within which fishing is by the terms of the said Convention renounced, such vessel shall forthwith be reported to the officer in command of one of the said national vessels, who, in conjunction with the officer in command of another of said vessels of the different nationality, shall hear and examine into the facts of the case. Should the said commanding officers be of opinion that the charge is not sustained, the vessel shall be released. But if they should be of opinion that the vessel should be subjected to a judicial examination, she shall forthwith be sent for trial

before the Vice-Admiralty Court at Halifax. If, however, the said commanding officers should differ in opinion, they shall name some third person to act as umpire between them, and should they be unable to agree upon the name of such third person, they shall each name a person, and it shall be determined by lot which of the two persons so named shall be the umpire.

## ARTICLE IV.

The fishing vessels in the United States shall have in the established ports of entry of Her Britannic Majesty's Dominions in America, the same commercial privileges as other vessels of the United States, including the purchase of bait and other supplies ; and such privileges shall be exercised subject to the same rules and regulations, and payment of the same port charges, as are prescribed for other vessels of the United States.

## ARTICLE V

The Government of Her Britannic Majesty agree to release all United States' fishing vessels now under seizure for failing to report at Custom Houses when seeking shelter, repairs or supplies, and to refund all fines exacted for such failure to report. And the High Contracting Parties agree to appoint a Joint Commission to ascertain the amount of damage caused to American fishermen, during the year 1886, by seizure and detention in violation of the Treaty of 1818, said Commission to make awards therefor to the parties injured.

## ARTICLE VI.

The Government of the United States and the Government of Her Britannic Majesty agree to give concurrent notification and warning of Canadian Customs regulations, and the United States agrees to admonish its fishermen to comply with them, and co-operate in securing their enforcement.

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No. 166.

*Lord Lansdowne to Sir L. West.*

(No. 88.)

OTTAWA, 28th December, 1886.

SIR,—I have the honour to acknowledge receipt of your despatch No. 109 of the 22nd inst., enclosing copies of a note from the Secretary of State to Mr. Phelps containing a proposal for the settlement of the Fisheries question.

The proposal will receive the early attention of my Government.

I have, &c.,

(Sd.)

LANSDOWNE.

Sir L. S. SACKVILLE WEST, K.C.M.G.,  
&c., &c., &c.

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No. 167.

*Secretary of State to Lord Lansdowne.*

[Telegram.]

24th December, 1886.

The United States' Government request Solicitors of "D. J. Adams" may be given for purposes of trial copies of reports by Scott or Customs Officers in connection with seizure. Her Majesty's Government propose to answer to following effect:

Solicitors appear to be not entitled to documents desired, otherwise they would obtain all necessary papers by means of legal procedure. Under the circumstances it does not lie with Her Majesty's Government to interfere with course of justice. Do you concur or does your Government consider it desirable to offer observations before Her Majesty's Government answer.

(Sd.)

SECRETARY OF STATE.

## No. 168.

*Lord Lansdowne to Secretary of State.*

[Telegram.]

25th December, 1886.

Your telegram of the 24th December. My Government concurs in answer suggested.

(Sd.) LANSDOWNE.

## No. 169.

*The Governor General to Mr. Stanhope.*

OTTAWA, 28th December, 1886.

SIR,—I have the honour to inform you that I have received from Sir L. West a despatch dated the 22nd inst., enclosing copies of a letter from Mr. Bayard to Mr. Phelps dated 15th November, 1886, and of a memorandum in which is contained the draft of a proposal by Mr. Bayard “for the settlement of all questions in dispute in relation to the fisheries on the north-eastern coasts of British North America.” These papers, of which printed copies were sent to me, have, no doubt, been transmitted to you through the Foreign Office.

No. 165 and  
enclosures.

2. I have referred Mr. Bayard's letter and the memorandum to my advisers, and I shall as soon as possible lay before you the formal expression of their opinion upon the subject. As, however, many members of my Government are absent from their offices at this season of the year and as some time must necessarily elapse before Mr. Bayard's proposal can be reviewed at length, it is as well that I should without further loss of time make you aware of some of the objections to which it is open, and which will, I have no doubt whatever, be made to it.

3. I would, before going further, observe that I have read with satisfaction Mr. Bayard's expression of his hope that advantage will be taken of the period of “comparative serenity” which is likely to prevail during the next few months, in order to arrive at an understanding which might put an end to any doubts which now exist with regard to the rights and privileges of United States' fishermen in Canadian waters.

4. I should however be slow to admit that the proceedings taken by the Canadian authorities during the past fishing season deserve to be characterized in the terms applied to them by Mr. Bayard. The reports which I have from time to time had the honour of sending to you have shown that the acts of interference which Mr. Bayard describes as involving the unjust and unfriendly treatment of citizens of the United States were rendered necessary in consequence of the violation by them of the laws to which all vessels resorting to Canadian waters are without exception amenable.

5. My Government does not yield to that of the United States in its desire to reduce within the narrowest limits the occasions for interference with the fishermen of the latter power and should it prove to be the case that there is no prospect of the establishment of closer and mutually advantageous relations between the two countries either in respect of the fish trade and fishing or of commercial intercourse generally, it will certainly be desirable that steps should be taken to determine beyond dispute the precise limits which divide the waters in which Canadian fishermen have the exclusive right of fishing from those in which that right is common to fishermen of all nations. A proposal for the appointment of a mixed Commission to which this duty should, subject to the concurrence of the Governments of the powers interested, be entrusted was, as Mr. Bayard points out, made in the year 1866, by the American Government and formed the subject of negotiations which were eventually superseded by those which led to the Treaty of 1871, and to the appointment of the Halifax Commission, which however did not deal with the question of the limits of the terri-

torial waters of Canada. If Mr. Bayard had simply reverted to the Adams-Clarendon memorandum of 1866, omitting the concluding paragraph to which objection was taken at the time by Lord Clarendon and which as Mr. Bayard at page two of his letter points out is not contained in the memorandum which he now submits, I should have regarded more hopefully than I do at this moment the prospect of an understanding being arrived at before another fishing season commences.

6. The first article however of the Draft Proposal now submitted by Mr. Bayard, while in other respects following closely the Adams-Clarendon memorandum, differs from that memorandum, not only in the omission of the final paragraph of the latter, but also in that it adds (see Mr. Bayard's Draft, Article I, Subsection I) the important stipulation that the Bays and Harbours from which American Fishermen are in the future to be excluded save for the purposes for which entrance into the Bays and Harbours is permitted by said Act are hereby agreed to be taken to be such Bays and Harbours only as are ten or less than ten miles in width.

7. This reservation would involve the surrender of the exclusive right of fishing in bays which have hitherto been regarded as beyond all question within the territorial waters of Canada, such, for instance, as the right of fishing in the inner waters of the Bay of Chaleurs at points 40 or 50 miles from its mouth, which, roughly speaking, may be said to be less than 20 miles wide at its opening.

8. I observe that Mr. Bayard in that part of his letter which refers to this suggestion has cited conventions entered into by France and Great Britain in 1839 and subsequently by other European powers in support of his contention that there should be no exclusive rights of fishing in Bays measuring more than ten miles at their opening. It is, I think, obvious that local arrangements of this kind must be made with reference to the geographical peculiarities of the coasts which they affect, and to the local conditions under which the fishing industry is pursued in different parts of the world, and that it does not by any means follow that because the ten-mile limit is applicable upon portions of the coast of the continent of Europe, it is therefore applicable under the peculiar circumstances, geographical and political, which are present in the case of the North American Continent. A reference to the action of the United States' Government, and the admissions made by their statesmen in regard to bays on the American coasts will, I think, strengthen this view of the case. The award in regard to the Bay of Fundy, upon which Mr. Bayard also relies in this part of his argument, was, I believe, justified mainly upon the ground that one of the headlands which formed this bay was in the territory of the United States, and that it could not therefore be regarded as a Canadian bay.

9. The *ad interim* arrangement embodied in Art II, of the memorandum prejudices in favor of the United States one of the most important of the points which have been in dispute by deciding adversely to Canada the construction which is to be placed upon Imperial and Canadian Statutes, the proper interpretation of which is at this moment the subject of litigation before the Canadian courts. It is to be observed that this Article might, in the event of the failure of the two Governments to arrive at a definite arrangement, a contingency which, considering the relations of the United States' Senate and the President, cannot be dismissed from our contemplation, remain in the operation for an indefinite time, greatly to the disadvantage of the fishermen of this country.

10. The procedure suggested in Art III, for the investigation on the spot of all cases of trespass by United States' fishing vessels, appears to be open to criticism as capable of being used for the purpose of frustrating the ends of justice. I would submit that no case has yet been made out for depriving of their jurisdiction particularly in those cases where the offence must *ex hypothesi* have been committed within the territorial waters of the Dominion, the properly constituted and trustworthy tribunals of this country, and substituting for them an irregularly composed court of first instance, such as that which would come into existence if this Article were to be adopted.

11. Article IV prejudices in favour of the United States the important question which has arisen as to the commercial privileges to which United States' fishing vessels

are entitled while in Canadian waters. My Government will, I have no doubt, insist upon the necessity of maintaining the distinction made by the Convention of 1818 between fishing vessels endeavouring to use Canadian Bays and Harbours as a basis of operation from which to prosecute their industry in competition with Canadian fishermen, and trading vessels resorting to such bays and harbours in the ordinary course of business.

12. The history of the negotiations which preceded the Convention of 1818 makes it perfectly clear that the purchase of bait was not one of the purposes for which it was intended that United States' fishing vessels should have a right of entering Canadian waters. It is, I observe, proposed by Mr. Bayard in the article under consideration, that this point also should be decided in anticipation against the Dominion without further discussion.

13. Under Article V it is assumed that the seizures and detentions which have taken place during the past season in consequence of non-compliance by United States' fishermen with the Customs Laws of Canada have in all cases involved the violation of the Treaty of 1818 by the Canadian authorities, and we are accordingly invited before submitting our case to examination by the proposed mixed commission, to release all United States' fishing vessels now under seizure for a breach of our Customs laws, and to refund all fines exacted for such illegality. We are, in other words, before going into court, to plead guilty to all the counts contained in this part of the indictment against us.

14. Indeed, if Mr. Bayard's proposal be considered as a whole it amounts to this—that the Government of the Dominion is to submit its conduct in the past and its rights in the future to the arbitrament of a Commission, without any assurance whatever that the recommendations of that Commission are likely to be accepted by Congress and that before the enquiry commences it is to place upon record the admission that it has been in the wrong upon all the most important points in the controversy. Such an admission would involve the public renunciation of substantial and valuable rights and privileges for all time without any sort of equivalent or compensation. Mr. Bayard can, I venture to think, scarcely expect that my Government should agree to so one-sided a proposal or should make without any return, concessions so damaging to the interests of this country and so injurious to its self respect. I trust that Her Majesty's Government will, to the utmost of its ability, discourage that of the United States from pressing these proposals in their present shape, and will avoid any action which might induce the belief that the offer embodied in them is one which deserved a favourable reception at the hands of the Government of the Dominion.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable

EDWARD STANHOPE.

— — — — —  
No. 170.

*Mr. Stanhope to Lord Lansdowne.*

DOWNING STREET, 30th December, 1886.

MY LORD,—I have the honour to transmit to you herewith, to be laid before your Government, a copy, received through the Foreign Office, of a note from the United States' Minister at this Court, enclosing an outline for an *ad interim* arrangement between the British and United States' Governments, on the subject of the North American Fisheries, accompanied by a despatch from Mr. Bayard containing some observations thereon.

On the receipt of these papers, Her Majesty's Minister at Washington was desired, by telegram to obtain copies of Mr. Bayard's despatch to Mr. Phelps of the

15th of November and of the proposals for an arrangement, and he was desired, if the United States' Government had no objection to transmit these copies direct to you.

In my telegram of the 27th December, I requested you to obtain at the earliest possible moment from your Government their views on Mr. Bayard's proposals and to report them to Her Majesty's Government.

I need now only add that Her Majesty's Government await with much interest the result of this reference to your Ministers.

I have, &c.,

(Sd)

EDWARD STANHOPE.

Governor General

The Most Honorable

The MARQUIS OF LANSDOWNE, G.C.M.G.

&c., &c., &c.

[Enclosure No. 1.]

*Mr. Phelps to Earl Iddesleigh.*

UNITED STATES' LEGATION, 3rd December, 1886.

MY LORD,—I have the honour to acknowledge the receipt of your note of 30th November on the subject of the Canadian Fisheries, and to say that I shall at an early day submit to Your Lordship some considerations in reply.

Meanwhile I have the honour to transmit, in pursuance of the desire expressed by Your Lordship in conversation on the 30th November, a copy of an outline for a proposed *ad interim* arrangement between the two Governments on this subject which has been proposed by the Secretary of State of the United States.

Enclosures of No. 165. And I likewise transmit, in connection with it a copy of the instruction from the Secretary of State which accompanied it, and which I am authorized to submit to Your Lordship.

I have &c.,

(Sd.)

E. J. PHELPS.

The EARL OF IDDESLEIGH.

&c., &c., &c.

No. 171.

*Lord Lansdowne to Secretary of State.*

7th January, 1887.

With reference to my despatch of 23th December, Mr. Bayard's proposal in its present shape is one which my Government could not entertain. We are, however, prepared to accept in substance the position which is laid down in Lord Clarendon's despatch of 11th May, 1866, to Sir F. Bruce.

(Sd.)

LANSDOWNE.

To the Secretary of State.

No. 172.

*Sir L. West to Lord Lansdowne.*

[No. 2.]

WASHINGTON, 15th January, 1887.

MY LORD,—With reference to a resolution introduced into and passed by the House of Representatives, I have the honour to enclose to Your Excellency herewith copies of the reply of the Secretary of the Treasury thereto, and to call attention to

the terms "brutally excludes" (page 191), and "passionate spite" (page 192), used in connection with your Government and its officers.

I have, &c.,

(Sd.) L. S. S. WEST.

His Excellency

The MARQUIS OF LANSDOWNE, G.C.M.G.,  
&c., &c., &c.

[Enclosure No. 1.]

49TH CONGRESS, }  
2d Session. }

HOUSE OF REPRESENTATIVES.

{ Ex. Doc.  
No. 78.

### AMERICAN FISHERIES.

#### *Reply of the Secretary of the Treasury.*

TREASURY DEPARTMENT, 10th January, 1887.

SIR,—I have the honour to receive the resolution of the House of the 14th ultimo, making inquiry in regard to the "interpretation now given by the Treasury Department to the tariff law of eighteen hundred and eighty-three, which in one section declares that 'fish, fresh for immediate consumption,' shall be free of tax on arrival at our sea ports or lake ports, and in another section declares that 'foreign caught fish, imported fresh,' shall be taxed at the rate of fifty cents for each hundred pounds," and also requesting me "to transmit to the House copies of all official correspondence, opinions and decisions bearing on the subject, together with a statement of the duties collected each year, since eighteen hundred and sixty-five, on the several descriptions of fish caught on the lakes, or the Canadian tributaries thereof, and also on the several descriptions caught in the North Atlantic, or on the shores of the islands thereof."

#### FROZEN FISH.

A satisfactory reply to these inquiries will make necessary a preliminary statement, and an exhibition of certain details connected therewith.

By the tariff law of 1846, there was levied 20 per cent. *ad valorem*, on the foreign value of:

"Fish, foreign, whether *fresh*, smoked, salted, dried, or pickled, not otherwise provided for."

The same schedule, and language, were preserved in the tariff law of 1857, but the rate was reduced to 15 per cent.

The tariff law of 2nd March, 1861, levied in the tenth section the following rates:

"On mackerel, two dollars per barrel; on herrings, pickled or salted, one dollar per barrel; on pickled salmon, three dollars per barrel; on all other fish, pickled, in barrels, one dollar and fifty cents per barrel; on all other foreign-caught fish, imported otherwise than in barrels or half-barrels, or whether fresh, smoked or dried, salted or pickled, not otherwise provided for, fifty cents per one hundred pounds."

In its twenty-third section that law declared that "fish, fresh caught, for daily consumption," shall be exempt from duty.

Then began a perplexity which has embarrassed the Department up to the present day. Some one at the port of entry must, under that clause, decide whether or not the fish, entered as free thereunder, is "fresh caught," and is "for daily consumption." Did the qualification "for daily consumption" refer to the "fish," or to the catching, and the purpose of the catching? Who can correctly pass judgment on the motive of the fishermen, or of the importer?

On 18th June, 1866, this Department decided (see Appendix A) that the phrase included all fish imported for consumption, while fresh, and did not include fish imported fresh, but to be afterwards dried, or pickled, or cured for future use. "Daily consumption," said this Department, twenty years ago, "means consumption within a short time." That view seems correct, but, nevertheless, the law was intrinsically incapable of exact execution, inasmuch as it might be difficult for a Customs officer to foresee, or foreknow, the intentions or purposes referred to.

I believe that the fish clause quoted above from the law of 2nd March, 1861, and which levied a tax on fish, stood till 1870, but the free clause was made in 1870 to read :

"Fish fresh, for immediate consumption."

The substitution of "immediate" for "daily" did not remove the perplexity.

The Tariff Commission did not report on the subject.

The tariff law of 1883 taxes fish at our seaports, our lake ports, and on the frontier, by these words in the schedule for "Provisions:"

"Mackerel, one cent per pound,

"Herrings, pickled or salted, one-half of one cent per pound.

"Salmon, pickled, one cent per pound; other fish, pickled, in barrels, one cent per pound.

"Foreign-caught fish, imported otherwise than in barrels or half-barrels, whether fresh, smoked, dried, salted, or pickled, not specially enumerated or provided for in this Act, fifty cents per hundred pounds."

A subsequent section declared that the following articles, when imported, shall be exempt from duty :

"Fish, fresh, for immediate consumption.

"Fish for bait.

"Oil, spermaceti, whale and other fish oils of American fisheries, and all other articles the produce of such fisheries.

"Shrimps or other shell-fish.

"Fish-sounds or fish-bladders."

The kinds of fish just described having been "specially enumerated, or provided for" in 1883, were thereby taken out of the clause levying a tax on foreign-caught fresh fish.

What has happened in the execution of the free-fish clause, during the last quarter of a century, whether the clause required "daily" or "immediate" consumption, is exhibited in the subjoined Appendix A. It is an unsatisfactory record of an effort to discover and execute an intention of the law-makers which was so ambiguously expressed as to lead to doubt and dispute. In 1877, and after the law of 1870, the difficulties were increased, partly by reason of new contrivances for the artificial freezing of fish.

At first it was doubted by collectors whether or not a fish caught in winter, thrown on the ice and frozen stiff while lying there, and imported in that condition, could be a "fresh fish," as if either a fresh fish cannot be frozen, or a frozen fish cannot be fresh. It was also insisted that a fish caught in summer, and frozen by an artificial method could not be deemed fresh, even though as fresh as one frozen by the natural coldness of winter air in a northern climate. Then it was said that the produce of American fisheries could not be carried into Canada, there artificially frozen, and afterwards be exempt from tax when entered at our ports. It was argued by Customs officers that the quantity entered could be made a safe test of "immediate consumption," as if Customs officers could correctly ascertain and decide on the "immediate" buying and consuming powers of the people. There were Customs officers who urged the Department to make the distance of the probable place of sale from the place of entry a test of "immediate consumption," as if transportation from Portland in Maine to a market at Boston could be a legal test, and "immediate" referred to place rather than time. One collector thought twenty tons of fish on one entry at a port on the lakes, could not be for "immediate consumption" by subsequent shipment and sale in the great markets of Chicago, Philadelphia, and New York. It could not be affirmed that the fish thus frozen, whether naturally or artificially, was either "smoked, or dried, or salted, or pickled." If freezing deprived the fish of freshness, it could not well be dutiable as foreign-caught fish, *fresh!* What sort of fish was it? Was it old, stale, and decayed fish that buyers and consumers sought, bought, and would eat? The contention has gone on for well-nigh a quarter of a century, nor has Congress intervened to tax frozen fish by other and explicit words!

In June last the interpretation of the law was referred to the Solicitor of this Department. His opinion, subjoined in Appendix A, does not relieve the enactment from difficulties in uniform application at each port such as the Constitution commands. If a collector shall, in order to secure such uniformity at every port, await the decision of this Department after an exhibition of the facts surrounding each entry, the fish might become anything but "fresh."

This fish clause of the tariff law affords a pertinent illustration of the need there is of revising our taxing legislation. The draughtsman of a great many of its sections, apparently unable to set down clearly his purpose, and his own idea of the method of executing it, has thrown upon appraising or collecting officers the work of ascertaining the intentions of importers, or the uses to which merchandise can be, or may be, thereafter put, which those officers are unable to perform in any reasonable time, or in any satisfactory way. To appraising and collecting work in practical administration there is a limit, which our present law too

frequently ignores, and Customs officers are unjustly criticised, or condemned for not doing such work properly.

I have dwelt upon this incident in our tariff legislation because it makes clear, even to the superficial observer, how man's inventions, and improved methods of rapid communication by steam, not only crowd down prices, and extend the saleable area of one article after another, year by year, and month by month, but even modify the necessary interpretation to be given to classifications in our taxing laws. One hundred and three years ago,—when the Treaty of Peace was signed, which apportioned the British Empire in America and its rights of fishing, between the British Government and the thirteen independent American States,—railways and steam engines were practically unknown, and the use of ice as now applied in the fishing industry, was also unknown. Even half a century ago the purchase and enjoyment of fresh fish as food was confined to places near the spot where the fish were caught. Thus it has come to pass that ice and railways have changed, even since 1870, the most obvious definition and the strictly literal application of the phrase in our tariff law, “fish, fresh, for *immediate* consumption.” Such causes of change are constantly occurring as to other articles, by reason of modifications in methods of production, new combinations of component materials, new nomenclature, and new commercial classifications, which enforce the need of frequent revisions of our tariff law, when the law, instead of taxing simply a few articles, requires the executive to levy and collect multifarious duties on so many hundreds and even thousands of articles.

The United States' Commissioner of Fish and Fisheries says in his report for 1881 :

“In the earlier years of the American fisheries, and in the greater abundance of inshore fisheries, with a comparatively slight demand in consequence of the small population of the country, and the difficulties of transporting the fish, it was quite possible to obtain, within easy reach of our coast, fish enough to meet all the requirements. Now, with a population of fifty millions of people, the great decline of the inshore fisheries, and the ability not only to transport fresh fish to any distance inland without deterioration, but with also the growing demand for salted, dried, and canned fish, it is of the utmost importance that every facility be furnished the fishermen in the prosecution of their business.”

In the report of the Commissioner for 1882 it is said :

“The work of increasing the supply of valuable fishes in the waters of the United States, whether by artificial propagation or by transplantation, although very successful, may be considered as yet in its infancy. It must be remembered that the agencies which have tended to diminish the abundance of the fish have been at work for many years, and are increasing in an enormous ratio. This, taken in connection with the rapid multiplication of the population of the United States, makes the work an extremely difficult one. If the general conditions remained the same as they were fifty years ago, it would be a very simple thing to restore the former equilibrium.

“At that time, it must be remembered, the methods of preservation and of wholesale transfer, by means of ice, were not known, while the means of quick transportation were very limited. Hence, a small number of fish supplied fully the demand, with the exception, of course, of species that were salted down, like the cod, the mackerel, and the herrings (including the shad). At that time a comparatively small quantity supplied the demand for *fresh* fish, and it was easy to more than meet the demand. Now, however, the conditions are entirely changed.”

In Appendix A will be found “the official correspondence, opinions and decisions,” on the subject of frozen fish, the record of which will disclose to your honourable body the vast amount of labour which even one ambiguous phrase in a tariff law throws upon your Treasury Department and its Customs officers. Our existing drag-net war-tariff law contains not one only, but hundreds of such phrases, and these are the least of its discreditable, scandalous, and easily remediable imperfections.

#### THE PRODUCTS OF AMERICAN FISHERIES EXEMPT FROM DUTY.

The clause, already quoted from the law of 1883, which exempts from seaport taxation all fish-oils of American fisheries, and “all other articles the produce of such fisheries,” has a large bearing on the inquiry made of me by the House. That exemption stands in the law of 1883, as it stood in the Revised Statutes, excepting the immaterial addition in the former of the word “oils” after “fish.” The exactment is in the law of 2nd March, 1861, which law secured the freedom of such articles from tariff taxes down to the Revised Statutes. The tariff laws of 1857, and 1846, contain the clause of 1861. The law of 1841 declares that “whale and other fish oils of American fisheries,” and all other articles the produce of said fisheries shall be exempt from duty. Before 1841 the clause does not appear in the statutes, and yet a manual issued in New York by Deputy Collector Lyon in 1828, and another in 1832, put down as free: “Fisheries of the United States and their territories,—all products.”

I also find substantially the same language in two compilations of the tariff laws—one by Meyer Moses in 1830, and one by E. D. Ogden in 1840 and still another compilation, in 1828, by “James Campbell, entry clerk, custom house, New-York,” in which he enumerates “fish of the fisheries of the United States or its Territories, free.” Mr. Ogden was for many years chief entry clerk at the port of New York, and a compiler of the revenue laws. In his edition for 1840 he cites as authority for the phrase the Acts of 14th July, 1832, 1840, and 1841. The explanation is probably this: The final clause of the first section of Act of 10th August, 1790, levies duties on a plan unlike that now used. It taxes at five per cent. *ad valorem* certain classes of merchandise, and then rescues from taxation certain specified commodities, “and, generally, all articles of the growth, the *product*, or manufactures of the United States.” The two sentences next to the last in the first section of the law of 27th April, 1816, impose duties “on spermaceu oil of *foreign* fishing, (and) on whale and other fish oil of *foreign* fishing.” The language in that law, as to the products named, is precisely the same as that used in the present tariff, with the single substitution in the latter “of *American* fisheries” for the words “of *foreign* fishing” in the former. My conclusion is that only the products of *foreign* fishing having been provided for as dutiable, the products of American fisheries were by a clear implication exempted from duty as the products of the United States. That they were the products of the United States is, it seems to me, put beyond question by the fact that bounties were paid to vessels engaged in American fisheries.

In 1836, it was decided by Mr Justice Story that when whales have been caught, and oil has been therefrom produced, by the crew of an American vessel, the oil is not the product of “foreign fishing” and dutiable, even although owned by aliens when entered at our ports. He said that the inquiry whether or not the oil was of “foreign fishing” depended upon the nationality of the vessel when the whales were caught and the oil extracted, and not upon any subsequent events.

In a series of comparatively recent decisions by this Department, copies of the text of which will be found in Appendix B, Fisheries have been defined as “*American*” within the meaning of our revenue laws, although the taking of the fish be on the high seas, or within a foreign jurisdiction. That should in part be so for other reasons than were assigned in those decisions inasmuch as Customs duties are, in general, only imposed on articles when imported from a port, or place, within the exclusive dominion of a foreign State, which could not be said of fish, or their products, arriving from the ocean where the fish were caught.

The phrase “fisheries of the United States,” is in the first tariff law enacted by the first Congress which sat under the Constitution, and the test of American fishing has, from that day to this uniformly been the nationality of the vessel, regardless of the place where the fish were taken. Even the Treaty of Washington, which admitted free of duty into each country fish of all kinds being the produce of the fisheries of either country, excepting fish of the inland lakes, and of the rivers falling into them, left fish caught therein by American vessels entitled to free entry in our ports as formerly. Our Supreme Court declared in 1876, that, subject to the paramount right of navigation (the power to regulate which is in the Federal Government) each State owns the bed of the tide-waters within its jurisdiction, and may appropriate them to be used exclusively by its citizens as a common for cultivating and taking fish if navigation be not impeded; but the Treaty of 1854 gave, nevertheless, to British subjects, in common with American citizens, the liberty to fish on our coasts north of the 36th parallel of north latitude, and the Treaty of 1871 gave the liberty north of the 39th parallel. Those treaties having fallen, and the fishing rights of Massachusetts on her coasts having returned to her, she may permit British vessels to fish on her coasts, but then it could not be said that the fish, if entered at our ports, had been imported from a foreign port. But apart from such an improbable incident to complicate the proposition, it may be safely affirmed that all fishing-grounds, whether on the high seas, or on the Canadian coasts secured to us by treaty stipulations, are “*American Fisheries*” if the fish are caught by vessels regularly documented by the Treasury Department. In that sense and to that end, the ocean and certain Canadian coasts are (under the Treaties of 1783 and 1818) *our* “fishing-grounds.”

#### WHAT VESSELS ARE AMERICAN VESSELS ?

In this relation, which concerns the freedom from taxation at our ports of fish products taken in the sea, or on Canadian coasts, and also concerns our pending serious differences with the British Government— it is important to realize what constitutes an American vessel thus capable of enlarging the area from which free fish can be entered at our ports. Congress, notably by the enactment of 5th July, 1884, has committed to the Head of this Department the supervision of the commercial marine, and merchant seamen of the United States, and of the decision of all questions relating to the issue of registers, enrolments, and licenses of vessels, and to the preservation of those documents. Whether or not a private vessel, claiming to be American, is American, and entitled to carry and display that flag, depends

solely on the character of the ship's papers that it carries by the permission of Congress, given under the attestation of this Department.—The only question is this: Has the vessel conformed to the laws, not of a foreign country, but of the United States? In the decision of that question her papers must be *primâ facie* evidence against all the world. These considerations are elementary, but they are important now as defining what are "American fisheries," whose products are in our ports exempt from Customs taxes.

The section of our law which authorizes a vessel, licensed for carrying on fishery, to "touch and trade at any foreign port" is not a modern contrivance for modern exigencies, as Canadian local officials intimate, but has been on our statute-book since 1793. As literally reproduced in section 4364 of the Revised Statutes, it gives the permission of this Department to any vessel, so licensed for carrying on the fisheries of the United States, to enter British or other foreign ports, as a commercial vessel, and to there enjoy the rights and privileges accorded to vessels of the United States sailing "foreign" under a register, and not engaged in the fisheries. The permission thus given to fishing vessels to "touch and trade" has been understood by this Department for nearly a hundred years as conferring upon the vessel a right to land, and to receive on board a cargo of merchandise, in the same manner as if she were not engaged in the fisheries. On the return of the vessel to the United States, she is required to make regular entry, and to be in all respects subject to the regulations prescribed for vessels arriving from foreign ports.

#### MEDIAEVAL RESTRICTIONS ON FREE NAVIGATION.

The stipulations of the Treaty of 1815 only applied in our favour to British territories in Europe. If they were applicable now to British territories in America the present differences in British North America should not exist, for the first article of that convention declares that "the inhabitants of the two countries, respectively, shall have liberty, freely and securely, to come with their ships and cargoes to all such places, ports and rivers, in the territories aforesaid, to which other foreigners are permitted to come, to enter into the same, and to remain and reside in any parts of the said territories, respectively."

The second article stipulates that, as to "the intercourse" between the United States and British possessions in North America, "each party shall remain in the complete possession of its rights."

In 1827, when the Treaty of 1815 was extended for an indefinite time, the United States struggled in vain with England for a more liberal agreement, or a more liberal interpretation of that of 1815, but could obtain neither.

Such liberty of access by American vessels to British colonial ports on this continent was the subject of fruitless negotiation by each of the first six Presidents. The endeavour was continued during forty years, and was only successful in the hands of General Jackson, as President, Mr. Van Buren as Secretary of State, and Mr. McLane as Minister to London, and then by concerted legislation relating at first only to the British West Indies. It having been arranged that there would be legislation at London opening to us the British colonial ports to the south of us on this continent, Congress, on 29th May, 1830, authorized President Jackson to proclaim our ports open "indefinitely, or for a fixed term," to British vessels from the islands, provinces, or colonies of Great Britain, on or near the North American continent," and north, south, or east of the United States.

Soon thereafter, and on 5th October, 1830, President Jackson did issue the Proclamation, and on 26th June, 1884, Congress again reduced tonnage dues on Canadian vessels of all sorts entering our ports. By such concerted and reciprocal legislation, the mediæval barriers around colonial possessions in America by which the mother Country had so long endeavoured for her own benefit to hamper and restrict the trade of the colonies, and to levy differential duties in favour of colonial produce, have been broken down. The Privy Council, and the Governor-General of the Dominion of Canada, while conceding that Canadian ports are now open to American trading vessels, attempt to apply that mediæval and discarded restrictive system to American fishermen on the high seas.

In 1845, after many years of effort by the United States, England again relaxed the rigor of the restrictions of her ancient laws of transportation, as applied to her colonies, and the two countries entered upon a new period of prosperity flowing from the unhindered carriage of merchandise in bond by land and water. That legislation covering the British North American provinces began, on our part, on 3rd March, 1845. In 1846 came the comprehensive system of warehousing, the general features of which are now in force, devised and perfected, during the administration of President Polk, by my distinguished predecessor, Mr. Robert J. Walker. In 1810, 1850, 1864, and subsequently, that system of warehousing, and transportation in bond by railway and steamboat, has been amended and improved so that to-day we of the United States and they of the Dominion of Canada are reaping the advantages of an international organization by which merchant line, whether dutiable or free, and if dutiable without payment

of duties in transit, can if entered at one of our ports proceed immediately over our territory to Canada, or, if landed at a Canadian port, can come freely to its destination in the United States, or can pass from one of our own ports to another over Canadian soil, and, in like manner, from one Canadian port to another over American soil. It is to be regretted that the British North American provinces impede and impair the full fruition of this beneficent system of international intercourse and transportation by unworthy and petty spite in their ports against American deep sea fishermen.

From 1821 to 1832, the aggregate annual traffic between the United States and the British North American provinces averaged only \$3,257,153; from 1832 to 1845 it rose to \$6,313,780, but, under liberal transportation arrangements, it rose from 1846 to 1853 to no less an annual average than \$14,230,763, leaving in our favour, during that period of eight years, a balance of trade of over 40 $\frac{1}{4}$  millions of dollars.

It was in 1845 that England, changing her colonial policy, empowered the Canadian provinces to make a tariff on imports to suit themselves. During the next year those provinces removed the barrier against American products which existed, in the form of differential rates in favour of British products, and admitted commodities from our side of the line on the same terms as commodities were admitted coming from British ports. In 1849, England, having by her Minister at Washington previously communicated with the Treasury Department, presented a further proposition for a further reciprocal relaxation of commercial restrictions which impeded trade across the boundary line. The administration of President Fillmore endeavoured to promote the object for which my predecessor in this Department, Mr. Robert J. Walker, strove, in 1846, in his correspondence with the British Minister.

This good result of only a partial experiment of reciprocal comity naturally led to negotiations for a more comprehensive international arrangement, and such a one was concluded in 1854 by negotiations conducted at Washington, on our side during the administration of President Pierce by a wise and illustrious statesman and citizen of New York, Mr. Marcy, who was then Secretary of State. That reciprocity treaty was in force till 1866, a period covering our civil war. Under its influence, the aggregate interchange of commodities between ourselves and the inhabitants of all the British provinces, — numbering not as many as those of the State of New York, — rose from an annual average of a little over 14 millions of dollars, in the previous eight years to over 33 $\frac{1}{4}$  millions in gold in 1855, to nearly 50 millions in 1856, and to 84 millions in the last year of its existence. During the thirteen years the British provinces, according to their official returns, purchased from us articles valued at over 359 $\frac{1}{2}$  millions of dollars in gold, and we bought from them 197 millions, thus making an international traffic of nearly 556 $\frac{1}{2}$  millions of dollars on a gold valuation. I can but think that if that treaty of 1854 had remained in force till this day, the two peoples, — divided by a boundary line which can only with difficulty be discerned from the Arctic ocean to the Pacific, from the Pacific to Lake Superior, and from Lake Ontario to the Atlantic, — would now be one people, at least for all purposes of production, trade and business.

During the past summer, while American vessels, regularly documented, have been excluded from the hospitality and privileges of trading in Canadian ports, Canadian fishing vessels have been permitted freely to enter and use American ports along the New England coast, have been protected by this Department in such entry and use, and have not been required to pay any other fees, charges, taxes, or dues than have been imposed upon the vessels of other governments similarly situated. The hospitality elsewhere, and generally extended in British ports to American commercial vessels has not been less, in quality or quantity, as I am informed, than the hospitality extended to British vessels in American ports; but there is this marked difference, that, while this Department protects Canadian fishermen in the use of American ports, the Dominion of Canada *brutally excludes* American fishermen from Canadian ports. This dependence of port hospitality, as between this Government and the British Government, in respect to vessels of either, is emphasized by the seventeenth section of the law of 19th June, 1886, empowering the President to suspend commercial privileges to the vessels of any country denying the same to United States' vessels. That section is in harmony with a section in the British navigation law which authorizes the Queen, whenever British vessels are subject in any foreign country to prohibitions or restrictions, to impose by Order in Council such prohibitions, or restrictions upon ships of such foreign country, either as to voyages in which they may engage, or as to the articles which they may import into or export from any British possession in any part of the world, so as to place the ships of such country on as nearly as possible the same footing in British ports as that on which British ships are placed in ports of such country.

#### REVENUE LAWS AND REGULATIONS.

The Head of this Department, having the responsibility of enforcing the collection of duties upon such a vast number of imported articles, under circumstances of so long a sea-coast and frontier line to be guarded against the devices of smugglers, should not be inclined

to under estimate the solicitude of the local officers of the Dominion of Canada to protect its own revenue from similar invasion. The laws for the collection of duties on imports in force in the United States and in the Dominion of Canada, respectively, will be found, on comparison, to be on many points similar in their objects and methods. They should naturally be similar, for both had, in the beginning, the same common origin. In the United States, Congress has divided the territory of each State by metes and bounds, usually by towns, cities, or counties, into collection districts, for the purpose of collecting duties on imports, and in each collection district has established a port of entry and ports of delivery. In that manner all our sea-coast frontier is sub-divided for revenue purposes. The object of our law is to place every vessel arriving from a foreign port in the custody of a Customs officer immediately upon her arrival, in order that no merchandise may be unladen therefrom without the knowledge of the Government. The Canadian law is much the same as our own in that regard, and in comparison with our own does not seem to me be unnecessarily severe in its general provisions. Our own law provides, for example (sec 2774, Rev. Stat.,) that:—

“ Within twenty four hours after the arrival of any vessel, from any foreign port, at any port of the United States established by law, at which an officer of the Customs resides, or within any harbor, inlet, or creek thereof, if the hours of the business of the office of the chief officer of Customs will permit, or as soon thereafter as such hours will permit, the master shall report to such officer, and make report to the chief officer, of the arrival of the vessel ; and he shall within forty-eight hours after such arrival make a further report in writing to the collector of the district, which report shall be in the form, and shall contain all the particulars required to be inserted in and verified like the manifest. Every Master who shall neglect or omit to make either of such reports or declaration, or to verify any such declaration as required, or shall not fully comply with the true intent and meaning of this section, shall, for each offence be liable to a penalty of one thousand dollars.”

Condemnation does not, in the opinion of this Department, justly rest upon the Dominion of Canada because she has upon her statute-books and enforces a law similar to the foregoing, but because she refuses to permit American deep-sea fishing vessels, navigating and using the ocean, to enter her ports for the ordinary purposes of trade and commerce, even though they have never attempted to fish within the territorial limits of Canada, and intend obedience to every requirement of the Customs laws, and of every other law of the port which such vessels seek to enter. American fishing-vessels duly authenticated by this Department, and having a permit “to touch and trade,” should be permitted to visit Canadian ports, and buy supplies, and enjoy ordinary commercial privileges, unless such a right is withheld in our ports from Canadian vessels. That right is denied by the Privy Council and the Governor General of the Canadian Dominion, upon the ground that it would be in effect a *pro tanto* abrogation of the Treaty of 1818. That contention is an error, in the opinion of this Department, because the Treaty of 1818 has no application to the subject matter. If the right claimed by this Department for American vessels authenticated by this Department were conceded by Canada, it would only apply to a few ports established by law for the entry of foreign vessels, and would merely enable United States’ fishing vessels to pursue their regular business after entry into or departure from such ports, under the same rules and regulations as are applied to the commercial vessels of other nations. We ask that American fishing vessels shall enjoy hospitality in such Canadian ports as are set apart for the entry of foreign vessels, for the unlading and shipment of merchandise, and generally for foreign commerce.

This Department has had occasion in the past, and may be compelled in the future, to seize and prosecute for forfeiture foreign as well as domestic vessels violating in our own ports, the Customs law, but I believe there never has been in the past, and I hope there never will be in the future, such *passionate spite* displayed by the officers of this Government, as has during the last summer been exhibited in the Dominion of Canada toward well meaning American fishermen. Congress has forbidden the Head of this Department to prosecute even for evasion of tariff law unless satisfied of “an actual intention to defraud.”

#### TONNAGE OF VESSELS ENGAGED IN AMERICAN FISHERIES, AND THE NATIONALITIES OF THE

#### FISHERMEN.

During the periods of the inquiry made of me by the House, the tonnage of American fishing-vessels of over twenty tons burden, other than whalers, will be seen in Appendix D.

That tonnage reached its maximum 203,459 in 1862, and during the subsequent seven years diminished by more than 70 per cent. The lowest number of tons was touched in the middle of the period between the expiration of the Reciprocity Treaty of 1854 and the conclusion of the Treaty of Washington of 1871. The falling off is perhaps to be attributed in great part to the repeal in 1866 of the laws allowing bounties to the vessels engaged in the fisheries. By the law of 1813 there was paid by the collector of the district where such

vessels belonged, to the owner thereof, if the vessel had been employed at sea, in fishing for the term of four months, and for each ton burden, a specified sum, not to exceed \$272 on any one vessel for one season, of which bounty three-eighths accrued to the owner and the other five-eighths to the several fishermen. In 1817 it was enacted that the bounty shall be paid only to vessels whereof the officers, and at least three-fourths of the crew, shall be citizens of the United States, or persons not the subject of any foreign prince or state. In 1819, soon after the conclusion of the Treaty of 1818, the bounties were increased, but not to exceed \$360 for each vessel. In 1864 it was enacted that the bounty shall not thereafter be paid to any vessel until satisfactory proof shall have been furnished to the collector of Customs that the import duty imposed by law upon foreign salt has been paid on all foreign salt used in curing the fish on which the claim to the allowance to the bounty is based, and the law was repealed on 28th June, 1864, (U. S. Stats. at Large, vol. 13, p. 201,) which required two-thirds of those on board to be American citizens. On 28th July, 1866, all laws and parts of laws allowing fishing-bounties to vessels thereafter licensed to engage in the fisheries was also repealed, but under the condition that duties shall be remitted on all foreign salt used by such vessels in curing fish. It seems quite probable that anticipation of the enactment repealing bounties induced, in great part, the great falling off in tonnage between 1862 and 1869.

The best estimate that can be made by this Department of the relation of aliens to citizens engaged in American fisheries, in the North Atlantic, other than whalers, is that during the last year (1886) of the 14,240 employed, seventy-eight per cent, were American citizens.

PRESENT CONDITION OF AMERICAN FISHERIES, AND THE SUM OF DUTIES COLLECTED ON FOREIGN FISH.

On May 28, 1886, and in furtherance of a suggestion made by our Fish Commissioner, this Department issued a circular letter of instruction to Collectors, a copy of which will be found in Appendix E. The replies received have been transmitted to that Commission, and therefrom valuable facts, respecting our fisheries, have been obtained, some of which the Commissioner has kindly grouped and placed at my disposition. They are respectfully submitted to the House in Appendix E. In Appendix C will be found such an exhibition of the duties collected on fish as the records of this Department, for reasons set forth in the Appendix, make available for immediate presentation to the House.

Respectfully yours,

(Sd)

DANIEL MANNING,  
*Secretary of the Treasury.*

The Honourable

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

No. 173.

*Minister at Washington to the Governor General.*

[No. 4.]

WASHINGTON, 19th January, 1887.

MY LORD, —I have the honour to enclose to Your Excellency herewith copies of a Bill which has been introduced into the House of Representatives, in consequence, it is said, of the denial on the part of Your Excellency's Government of the right to land and transport American fish in bond over Canadian railroads to the United States.

I have, &c.,

(Sd.)

L. S. SACKVILLE WEST.

His Excellency

The MARQUIS OF LANSDOWNE, G.C.M.G.

&c.,

&c.,

&c.

[Enclosure No. 1.]

49TH CONGRESS, }  
2d Session. }

HOUSE OF REPRESENTATIVES.

{ H. R. 10786.

17TH JANUARY, 1887.

Read twice, referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. Belmont introduced the following Bill :

A Bill "To protect American vessels against unwarrantable and unlawful discriminations in the ports of British North America."

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter whenever the President shall be satisfied that vessels of the United States are denied in ports of the British Provinces in North America bordering on the Atlantic Ocean, or in the waters adjacent to said Provinces, rights to which such vessels are entitled by treaty or by the law of nations, he may, by proclamation, prohibit vessels bearing the British flag and coming from such ports from entering the ports of the United States, or from exercising such privileges therein as he may in his proclamation define ; and if, on and after the date at which such proclamation takes effect, the master or other person in charge of any such vessels shall do, in the ports, harbours or waters of the United States, for or on account of such vessel, any act forbidden by such proclamation aforesaid, such vessel, and its rigging, tackle, furniture and boats, and all the goods on board, shall be liable to seizure and forfeiture to the United States ; and any person or persons preventing or attempting to prevent, or aiding any other person in preventing or attempting to prevent, any officer of the United States from enforcing this Act, shall forfeit and pay to the United States one thousand dollars, and shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to imprisonment for a term not exceeding two years.

Sec. 2. That the President may also, by such proclamation, forbid the entrance into the United States of all merchandise coming by land from the Provinces of British North America, and may also forbid the entrance into the United States of the cars, locomotives or other rolling stock of any railway company chartered under the laws of said Provinces ; and upon proof that the privileges secured by article twenty-nine of the Treaty concluded between the United States and Great Britain on the eighth day of May, eighteen hundred and seventy-one, are denied as to goods, wares and merchandise arriving at the ports of British North America, the President may also, by proclamation, forbid the exercise of the like privileges as to goods, wares and merchandise arriving in any of the ports of the United States ; and any person violating or attempting to violate the provisions of any proclamation issued under this section shall forfeit and pay to the United States the sum of one thousand dollars, and shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to imprisonment for a term not exceeding two years.

Sec. 3. That whenever, after the issuance of a proclamation under this Act, the President is satisfied that the denial of rights and privileges on which this proclamation was based no longer exists, he may withdraw the proclamation, or so much thereof as he may deem proper, and reissue the same thereafter when in his judgment the same shall be necessary.

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No. 174.

*Sir L. West to Lord Lansdowne.*

[No. 5.]

WASHINGTON, January 21st, 1887.

MY LORD,—I have the honour to enclose herewith copies of the Bill and Report thereon for the appointment of a Commission to investigate losses and injuries inflicted on United States' citizens engaged in the North American fisheries.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

The MARQUIS OF LANSDOWNE, G.C.M.G.,  
&c., &c., &c.

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[Enclosure No. 1.]

49TH CONGRESS, }  
2nd Session. }HOUSE OF REPRESENTATIVES.  
Report No. 3648.{ H. R.  
10241

December 17, 1886.

Read twice, referred to the Committee on Foreign Affairs, and ordered to be printed.

January 18, 1887.

Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. Belmont introduces the following bill :—

## A BILL

For the appointment of a commission to investigate concerning losses and injuries inflicted since December thirty-first, eighteen hundred and eighty-five, on United States' citizens engaged in the North American fisheries.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President be, and is hereby, authorised to appoint a commissioner to proceed to such places in the United States or elsewhere as may be designated by the Secretary of State, to take testimony, under oath or affirmation, in relation to the losses and injuries inflicted since the thirty-first of December, eighteen hundred and eighty-five, by British authorities, imperial or colonial, upon citizens of the United States engaged in the fisheries on the north-east coasts of British North America. Said commissioner shall everywhere have, in respect to the administration of oaths or affirmations and the taking of testimony, the same powers as a commissioner of a circuit court, and shall be paid the same fees as are prescribed for similar services of a commissioner of a circuit court, together with travelling expenses.

[Enclosure No. 2.]

49TH CONGRESS, }  
2nd Session. }

HOUSE OF REPRESENTATIVES.

{ REPORT  
No. 3648

NORTH AMERICAN FISHERIES.

JANUARY 18, 1887.—Committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. BELMONT, from the Committee on Foreign Affairs, submitted the following

## REPORT :

[To accompany Bill H. R. 10241.]

*The Committee on Foreign Affairs, to which were referred the President's Message, of 8th December, 1886 (Ex. Doc. No. 19), and the reply of the Secretary of the Treasury, on 10th January, 1887 (Ex. Doc. No. 78), to the resolution of the House adopted on 14th December, 1886, and House Bill 10241, submits the following report :—*

Your Committee has not only given to those communications the very careful consideration which they deserve, but, during the last Session of the House, made diligent inquiry into the whole subject of American Fisheries. They were attended in the committee-room by, among others, William Henry Trescot, Esq., and Charles Levi Woodbury, Esq., of Boston. Mr. Woodbury represented all, or a large majority of, New England owners of fishing vessels, and both of the gentlemen favoured your Committee with valuable opinions on different phases of the important subject under consideration.

Your Committee is of opinion that the rightful area of our "American Fisheries" has been reduced, and the quantity of fish—fresh, dried, cured, or salted—landed in the United States free of duty has been diminished, by the conduct of the local officers in Canada. That conduct has been not only in violation of Treaty stipulations and of international comity, but during the fishing season just passed has been inhuman, as the Message of the President clearly establishes.

#### THE TREATY OF 1783.

The Treaty of Peace defined, in 1783, the area of American Fisheries which might, in that portion of the world, be prosecuted by American vessels. Its third article declares:

##### "ARTICLE III.

"It is agreed that the people of the United States shall *continue* to enjoy unmolested *the right*—

"(1) To *take* fish of every kind on the Grand Bank and all other banks of Newfoundland;

"(2) Also in the Gulf of Saint Lawrence;

"(3) And at all other places *in the sea*, where the inhabitants of both countries used at any time heretofore to fish. And also that the inhabitants of the United States shall have *liberty*—

"(1) To *take* fish of every kind on such part of the *coast* of Newfoundland as British fishermen shall use (but not to dry or cure the same on that island);

"(2) And also on the coasts, bays, and creeks of *all* other of His Britannic Majesty's Dominions in America;

"(3) And that the American fishermen shall have liberty to *dry* and *cure* fish in any of the unsettled bays, harbours and creeks of Nova Scotia, Magdalen Islands and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to *dry* or *cure* fish at such settlement without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground."

When that Treaty of Peace was signed, the British Navigation Act of Charles II, and other laws, prevented trade in foreign vessels with the Anglo-American Colonies. The corner-stone of that policy was a monopoly of colonial trade for British vessels. The American Colonies were founded in subservience to British commerce. A double monopoly was established by England—a monopoly of their whole import, which is all to be from England; a monopoly of their whole export, which is to be sent nowhere but to Great Britain. The colonies were to send all their products raw to England, and take everything from England in the last stage of manufacture. The Treaty of Peace did not stipulate for a change of that policy as between the United States and Canada, although the American Congress did, in April, 1776, sweep away, so far as it could, that monopoly system from the ports it controlled, abolish British Custom Houses and put none in their stead, proclaim absolute free trade in the place of heavy restrictions, invite products from any place to come in friendly vessels, and authorize American products to be exported without tax.

After the thirteen States had acquired their independence, American vessels were not only excluded from the ports of the British Colonies, but Canada, as a reward for its loyalty, received the exclusive privilege of supplying the British West Indies with timber and provisions, to the great injury of the latter, whose nearest ports were the American Gulf ports and South American ports.

It will be observed that this article, in continuing, confirming and establishing the thirteen States and their inhabitants in the taking of fish on the banks, in the Gulf and in the sea, uses the word "*rights*," but uses the word "*liberty*" in confirming to American fishermen the taking of fish on the coasts, bays and creeks of every part of the British Dominions in America. The word "*rights*" is thus applied to fishing in the open sea, which by public law is common to all nations, and was intended to affirm that Great Britain did not claim to hold by Treaty engagements, or in any other manner, an exclusive right of fishing therein. The word "*liberty*" is thus applied to taking fish, to drying and curing fish, on what was, anterior to the Treaty, within the jurisdiction, or territorial waters of Great Britain, but an exclusive right of taking fish therein was not hers. "*Liberty*," as thus used, implies a freedom from restraint or interference in fishing along the British coasts.

Canada having been, by the aid of men of the New England Colonies, conquered for the English in 1759, the conquest having been confirmed in 1763 by the Treaty of Paris, and the sovereignty of Newfoundland having been conceded to Great Britain by the peace of Utrecht in 1713, the American Colonists, who bravely endured sacrifices in war to accomplish those

results, shared therein, as British subjects down to 1783, when, by Treaty, England stipulated that the citizens of the "free, sovereign, and independent" States of America shall *continue* to share, and share alike, with British subjects in such coast fishing. Lord North having, in 1775, proposed to the House of Commons to exclude the fishermen of New England from the Banks of Newfoundland, and to restrain them from a toil in which they excelled the world, the joint right to the fisheries became a vital part of the great American struggle. "God and nature," said Johnston, "have given that fishery to New England and not to Old." Americans, Britons and British Canadians became, by the Treaty, partners in the fisheries. It created a "servitude of public law" in favour of American fishermen. "ALL British coasts, bays and creeks" in America were thereby, as Secretary Manning so aptly says, made a part of our "American Fisheries," to which our tariff laws, thereafter enacted, referred and attached, and so made the products thereof exempt from duty on entry at our ports.

#### TREATY OF GHENT.

Thus stood American rights and liberties of fishing on the high seas, and within the limits of British Dominion in North America, down to the War of 1812, and to the Treaty of peace negotiated at Ghent, which closed that war. Till then it was nowhere denied that American fishermen could fish on the high seas and on those coasts wherever British fishermen could fish. But during the negotiations at Ghent, in 1814, the British negotiators declared that their Government 'did not intend to grant to the United States gratuitously the privileges formerly granted by Treaty to them of *fishing* within the limits of the British sovereignty and of using the shores of the British territories for purposes connected with the British fisheries.' In answer to this declaration the American negotiators said they were "not authorised to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto."

England contended that the word "*right*" in the Treaty of 1783 was used as applicable to what the United States were to enjoy in virtue of a recognized independence, and the word "*liberty*" to what they were to enjoy as concessions strictly dependent on the existence of the Treaty in full force, which concession fell, as England asserted, on the declaration of war by the United States, and would not be revived excepting for an equivalent.

In the alarming condition of affairs, at home and abroad, in the autumn of 1814, our Government did finally authorise our negotiators at Ghent to agree to the *status quo ante bellum* as the basis of negotiation, provided only that our national independence was preserved. (See introductory notes by Hon. J. C. Bancroft Davies to "Treaties and Conventions," published by the Department of State in 1873, p. 1021.) The Treaty was signed on 24th December, 1814. How different might have been its terms had there been procrastination till the news came of General Jackson's brilliant victory at New Orleans only fifteen days afterwards, or till the escape of Napoleon from Elba only two months later.

#### THE TREATY OF 1818.

Within a short time after the close of the year 1814, England announced her purpose to exclude American fishermen from the "*liberty*" of fishing within one marine league of her shores in North America, and of drying and curing fish on the unsettled parts of those territories.

The announcement led up to the Treaty of 1818, whereby the "*liberty*" conceded in 1783 to belong to American Fishermen was confined within narrower limits, and the area of American fisheries was greatly reduced as well as the quantity of American caught fish arriving exempt from taxation at our ports. The Treaty of 1818, and the misunderstanding under it, led up to the Marcy-Elgin Reciprocity Treaty of 1854, terminated in 1866, which covered by a new stipulation, a part of the stipulations contained in the Treaty of 1818. Your Committee do not now express an opinion whether or not the termination of the Reciprocity Treaty of 1854, revived the superseded and dead stipulation of the Convention of 1818, contained in its renunciation sentences, which are the last sentences of the first article, for which stipulation in the Treaty of 1818, a new positive stipulation was substituted and inserted in the Treaty of 1854, which last-named Treaty might, in accordance with its terms, have been in force indefinitely.

The first article of the Treaty of 1818, which has been the cause of such unnumbered international differences and disputes, is in these words :—

"Whereas differences have arisen respecting the *liberty* claimed by the United States, for the inhabitants thereof, to take dry and cure fish on certain *coasts, bays, harbours, and creeks* of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind.—

" 1. On that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, from the said Cape Ray to the Quirpon Islands ;

" 2. *On the shores of the Magdalen Islands ;*

" 3. And also on the coasts, bays, harbours and creeks from Mount Jolly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company.

" And that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador ; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground.

" And the United States hereby renounce forever any *liberty* heretofore enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America *not included within the above-mentioned limits .*

" *Provided, however, That the American Fishermen shall be permitted to enter such bays or harbours (1) for the purpose of shelter and (2) of repairing damages therein ; of (3) purchasing wood and (4) of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever, abusing the privileges hereby reserved to them."*

That article does not allude to, or attempt to interfere with, our rights in the open sea, on the banks, or in the gulf, which were confirmed by the concession of the independence of the thirteen States. It refers only to the liberty claimed and recognized by the Treaty of 1783, "on certain coasts, bays, harbours and creeks." It begins by a recital that differences have arisen respecting the "liberty" claimed by American fishermen *in those places*. It neither mentions nor alludes to any differences about fishing on the high seas. It stipulates that American fishermen may fish on certain specified coasts, bays, harbours, creeks, and shores, and may dry and cure fish in certain unsettled bays, harbours and creeks, and especially dry and cure on the coasts of Newfoundland, which last the Treaty of 1783 did not embrace. The United States "renounces" any "liberty" to take, dry, or cure fish within three miles of any other coasts, bays, creeks, or harbours than those specified in the article, but the sentence of renunciation contains a stipulation that the American fishermen may enter "*such bays or harbours*" for four specified purposes, "and for no other purpose whatever," under such restrictions as may be *necessary* to prevent fishing, drying, or curing "*therein*."

Unless English words were in 1818 used in that article in an unusual sense, there is not a sentence or word therein that has reference to anything else than taking, drying, or curing fish, by American fishermen, on or within certain coasts, bays, creeks, or harbours therein described. No word or phrase mentioned alludes or refers to deep-sea fishing, or ordinary commercial privileges. The restrictions refer only to fishing, or drying, or curing, ordinary commercial privileges. The restrictions refer only to fishing, or drying, or curing "in such bays or harbours."

It is to be assumed that when this Treaty of 1818 was signed, the British statutes of Charles II, in restraint of navigation, the rudiments of which are to be seen in 1650, and were aimed at Dutch trade with British sugar colonies, were, on the English side, rigorously enforced, so that no merchandise could be lawfully imported into Canadian ports excepting in English bottoms. The Treaty of 1818 was concluded on 20th October, of that year, but ratifications were not exchanged till 30th January, 1819. Certainly on our side there was then in force legislative restriction on navigation almost as severe as was the English enactment after the restoration of Charles II. America had not then emerged from the era of the embargo, Berlin and Milan decrees, and the influences of the War of 1812. On 18th April, 1818, the President approved a law closing our ports after 30th September, 1818, against British vessels coming from a colony which, by the ordinary laws, is closed against American vessels. Touching at a port open to American vessels could not modify the restriction. Vessels and cargoes entering, or attempting to enter, in violation of the law, were forfeitable. And any English vessel that could lawfully enter our ports was compelled to give a bond, if laden outward with American products, not to land them in a British colony or territory from which American vessels were excluded. The pre-umption is that, quite independently of fishing rights and liberties, no American vessel was for long before and after 1818 permitted by English law to touch and trade in Canadian ports. How that system of exclusion was gradually broken down, not by treaty, but by concerted legislation, the Secretary of State and

the Secretary of the Treasury have clearly exhibited in the communications referred to your Committee.

Not till 1822 were American wheat and lumber permitted to go directly from American ports to the British West Indies and be entered there. In 1843 Canada was allowed to import American wheat, and then send it through the Saint Lawrence to the English market as native produce—an indirect open blow at the English corn laws. Canadian trade entered upon another stage of prosperity in 1846, when the restrictive navigation laws of England were again relaxed for her benefit, and in 1850, when Canada was quite relieved from the injurious influences of those laws; but yet Canada, at this late day, endeavours to return to those obsolete and condemned restraints on trade by excluding deep-sea American fishermen from her ports.

That a sovereign state has exclusive jurisdiction in its own territory, and over its own vessels on the high seas, is nowhere denied. Mr. Fish announced, as Secretary of State, in 1875, "we have always understood and asserted that, pursuant to public law, no nation can rightfully claim jurisdiction at sea beyond a marine league from the coast." No nation has asserted, independently of a treaty, an exclusive dominion over the sea surrounding its coast applicable to the *passing* ships of other nations. Why should a vessel which, under stress of weather or necessities of navigation, casts anchor for a few hours in a bay be subjected to a larger or fuller foreign jurisdiction than a passing vessel, provided inshore fisheries are not thereby poached upon, or the revenue evaded, or safe navigation endangered, or crime attempted or committed? Why need a powerful State take any cognizance of such innocent and casual presence of a little body of foreign seamen? The treaties which have been made applicable thereto refer to neutrality in war and the exclusive right of fishing, thereby proving the general rule. There is, no doubt, a well-founded claim, based on *usage*, over an exclusive dominion of *some* narrow zone of the sea for *some* purposes, but those purposes are carefully restricted, among other things, to navigation, rules of the road, lighthouses, quarantine, pilotage, anchorage, revenue, or local fisheries. By the Treaties of 1783 and 1818 there is a zone of the Canadian and Newfoundland coasts open and free to American fishermen.

That dispute was settled, and a new contract entered into by the Reciprocity Treaty of 1854, which stipulated:

"ARTICLE I. It is agreed by the High Contracting Parties that *in addition to the liberty secured to the United States fishermen by the above-mentioned convention of 20th October, 1818*, of taking, curing, and drying fish on certain coasts of British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and of the several islands thereunto adjacent (and, by another article, Newfoundland), without being restricted to any distance from shore, with permission to land upon the coasts and shores of those colonies and the islands thereof, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the same coast in their occupancy for the same purpose. It is understood that the above-mentioned liberty applies solely to the sea-fishery, and that the salmon and shad fisheries and all fisheries in rivers and the mouths of rivers are hereby reserved exclusively for British fishermen."

Similar provision was made in Article II, with like exception, for the admission of British subjects to take fish on a part of the sea-coasts and shores of the United States.

The United States purchased the fishery provisions of this treaty, and exemption from certain restrictions in the Treaty of 1818, by stipulations that certain enumerated articles of the growth and produce of the British colonies of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland should be admitted at our ports free of duty.

They were the incidents of a larger question, namely, the terms of commercial intercourse between the United States and the British colonies in North America.

It is not contended anywhere, by anybody, that the stipulations in the treaty of peace of 1783, by which the sovereignty and independence of the thirteen States were acknowledged, their boundaries fixed, their right established to navigate the high seas and to fish therein, fell by the War of 1812. Nor is it pretended that the War of 1812 grew out of the exercise of fishing rights under the Treaty of 1783, so as that whatever stipulations therein were intended to be permanent, to bind during war, and to survive war, were extinguished by the war. Even if it be conceded that the "liberty to Americans," in the Treaty of 1783, to catch or cure and dry fish on the coast of Newfoundland, and "on the coasts, bays, and creeks of all other of Her Britannic Majesty's dominions in America," could, on a declaration of war by the United States, have been annulled by England, they were not at any time expressly annulled. If they could have been suspended by the will of England, they were not expressly suspended. If they were suspended by the fact of war, if they were like temporary commercial engage-

ments, or like postal treaties, there was nothing in the facts of the War of 1812 to prevent them from recommencing their operations automatically with the peace. Nothing in the relations of the two Governments, was inconsistent with their survival. Mr. Dana, in his note on Wheaton (page 353), has stated the rule thus:

"If a war arises from a cause independent of the Treaty, the survival of any clause in the Treaty must depend upon its nature and the circumstances under which it was made."

The question of amendment or survival of the Treaty of 1783, as to certain specified parts of the British coast in America, was, however, by the Treaty of 1818, made of no practical consequence (so long as that Treaty endured) by the renunciation signed by the United States.

#### THE CANADIAN CONTENTION.

The legal effect of the first Article of the Treaty of 1818 may be sketched in outline in this wise:

All the British coast, shores, bays, harbours, and creeks in America were, by that Article, separated into two portions, which were bounded, defined and indentified. The two may be marked respectively as A. and B. In the sixth volume of "*Papers Relating to the Treaty of Washington*," published by the Department of State in 1874, is a map of New Brunswick, Nova Scotia, Newfoundland and Prince Edward Island, coloured in a way to plainly exhibit these two portions. In all that portion marked A it was agreed that the inhabitants of the United States shall have forever, in common with British subjects, the liberty to take fish of every kind; but as to the portion marked B, the United States renounced forever any liberty theretofore enjoyed or claimed to take, dry, or cure any fish. It was stipulated, nevertheless, that "the American fishermen shall be permitted to enter" the portion marked B for the purpose of shelter, repairing damages, purchasing wood, obtaining water, and "for no other purpose whatever."

The entire Article referred to inshore fishing. No right and no liberty whatever, that might concern deep-sea fishermen, did the United States, by the Treaty of 1818, renounce.

This obvious intent and purpose of the Article is confirmed by the last words of the section, which declares: "But they" (the American fishermen) "shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein" (in portion B) "or in any other manner abusing the privileges hereby reserved to them." The "restrictions to be imposed upon the American fishermen, while in portion B, are expressly limited, not to such as concern navigation or revenue, but to such as were specifically renounced, namely, to such as "may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them" in order to take, dry, or cure fish therein.

Was it not clearly the intention of the negotiators of this Treaty that the character of these restrictions should be agreed upon by the parties to the Treaty? Is it reasonable to assume that the American negotiators intended that the Canadian Provinces, or even the British Government, should have the exclusive power to prescribe "restrictions" which might entirely destroy the value of any unrenounced right and liberty theretofore claimed and enjoyed, or of any conceded "privileges" thereby reserved to American fishermen in portion B?

These preliminary explanations will assist to measure the force and bearing upon American deep-sea fishermen of the interpretation put upon the Treaty by the Canadian Dominion during the last summer.

The following extracts are taken from the message of the President to Congress of the 8th ultimo.

#### WHAT CANADA HAS SAID.

On 5th June, 1886, the Canadian Minister of Marine and Fisheries declared:

"It appears the 'Jennie and Julia' is a vessel of about 14 tons register, that she was to all intents and purposes a fishing vessel, and, at the time of her entry into the Port of Digby had fishing gear and apparatus on board, and that the collector fully satisfied himself of these facts. According to the master's declaration, she was there to purchase fresh herring only, and wished to get them direct from the weir fishermen. The collector, upon his conviction that she was a fishing vessel, and, as such, debarred by the Treaty of 1818 from entering Canadian ports for the purposes of trade, therefore, in the exercise of his plain duty, warned her off.

"The Treaty of 1818 is explicit in its terms, and by it United States' fishing vessels are allowed to enter Canadian ports for shelter, repairs, wood and water, and 'for no other purpose whatever.'

"The undersigned is of the opinion that it cannot be successfully contended that a *bona-fide* fishing vessel can, by simply declaring her intention of purchasing fresh fish for other than baiting purposes, evade the provisions of the Treaty of 1818, and obtain privileges not contemplated thereby. If that were admitted, the provision of the Treaty which excludes United States' fishing vessels for all purposes but the four above-mentioned would be rendered null and void, and the whole United States' fishing fleet be at once lifted out of the category of fishing vessels, and allowed the free use of Canadian ports for baiting, obtaining supplies, and transshipping cargoes.

"It appears to the undersigned that the question as to whether a vessel is a fishing vessel or a legitimate trader or merchant vessel is one of fact, and to be decided by the character of the vessel and the nature of her outfit, and that the class to which she belongs is not to be determined by the simple declaration of her master that he is not at any given time acting in the character of a fisherman.

"At the same time the undersigned begs again to observe that Canada has no desire to interrupt the long established and legitimate commercial intercourse with the United States, but rather to encourage and maintain it, and that Canadian ports are at present open to the whole merchant navy of the United States on the same liberal conditions as heretofore accorded."

On 7th June, 1886, the Canadian Governor General advised the Minister of Foreign Affairs at London:

"No attempt has been made either by the authorities intrusted with the enforcement of the existing law or by the Parliament of the Dominion to interfere with vessels engaged in *bona fide* commercial transactions upon the coasts of the Dominion. The two vessels which have been seized are both of them beyond all question fishing vessels, and not traders, and therefore liable, subject to the finding of the courts, to any penalties imposed by law for the enforcement of the Convention of 1818 on parties violating the terms of that Convention."

On 14th June, 1886, a Committee of the Privy Council for Canada put forth the following opinions and conclusions, which were approved by the Governor General:

"It is not, however, the case that the Convention of 1818 affected only the inshore fisheries of the British Provinces; it was framed with the object of affording a complete and exclusive definition of the rights and liberties which the fishermen of the United States were thenceforward to enjoy in following their vocation, so far as those rights could be affected by facilities for access to the shores of waters of the British Provinces, or for intercourse with their people. It is, therefore, no undue expansion of the scope of that Convention to interpret strictly those of its provisions by which such access is denied, except to vessels requiring it for the purposes specifically described.

"Such an undue expansion would, upon the other hand, certainly take place, if, under cover of its provisions or of any agreement relating to general commercial intercourse which may have since been made, permission were accorded to United States' fishermen to resort habitually to the harbours of the Dominion, not for the sake of seeking safety for their vessels, or of avoiding risk to human life, but in order to use these harbours as a general base of operations from which to prosecute and organize with greater advantage to themselves the industry in which they are engaged.

"It was in order to guard against such an abuse of the provisions of the Treaty that amongst them was included the stipulation that not only should the inshore fisheries be reserved to British fishermen, but that the United States, should renounce the right of their fishermen to enter the bays or harbours, excepting for the four specified purposes, which do not include the purchase of bait or other appliances, whether intended for the deep-sea fisheries or not.

"The undersigned, therefore, cannot concur in Mr. Bayard's contention that 'to prevent the purchase of bait, or any other supply needed for deep-sea fishing, would be to expand the convention to objects wholly beyond the purview, scope, and intent of the Treaty, and to give to it an effect never contemplated.'

"Mr. Bayard suggests that the possession by a fishing vessel of a permit to 'touch and trade' should give to her a right to enter Canadian ports for other than the purposes named in the Treaty, or, in other words, should give her perfect immunity from its provisions. This would amount to a practical repeal of the Treaty, because it would enable a United States' Collector of Customs, by issuing a license originally only intended for purposes of domestic customs regulation, to give exemption from the Treaty to every United States' fishing vessel. The observation that similar vessels under the British flag have the right to enter the ports of the United States for the purchase of supplies loses its force when it is remembered that the Convention of 1818 contained no restriction on British vessels and no renunciation of any privileges in regard to them."

On August 14, 1886, the Minister of Marine and Fisheries said:

"There seems no doubt, therefore, that the "Novelty" was in character and in purpose a fishing vessel, and as such comes under the provisions of the Treaty of 1818, which allows United States' fishing vessels to enter Canadian ports 'for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever.'

"The object of the captain was to obtain supplies for the prosecution of his fishing, and to tranship his cargoes of fish at a Canadian port, both of which are contrary to the letter and spirit of the Convention of 1818."

On October 30, 1886, a Committee of the Canadian Privy Council contended, and the Administrator of the Government in Council upheld the contention:—

"That the Convention of 1818, while it grants to United States' fishermen the right of fishing in common with British subjects on the shores of the Magdalen Islands, does not confer upon them privileges of trading or of shipping men, and it was against possible acts of the latter kind, and not against fishing inshore, or seeking the rights of hospitality guaranteed under the Treaty, that Captain Vachem (McEachern) was warned by the Collector."

On November 24, 1886, a Committee of the Canadian Privy Council declared, and the Governor General approved the declaration:

"The Minister of Marine and Fisheries, to whom said despatch was referred for early report, states that any foreign vessel, 'not manned nor equipped, nor in any way prepared for taking fish,' has full liberty of commercial intercourse in Canadian ports upon the same conditions as are applicable to regularly registered foreign merchant vessels; nor is any restrictions imposed upon any foreign vessels *dealing* in fish of any kind different from those imposed upon foreign merchant vessels dealing in other commercial commodities.

"That the regulations under which foreign vessels may *trade* at Canadian ports are contained in the Customs Laws of Canada (a copy of which is herewith), and which render it necessary, among other things, that upon arrival at any Canadian port a vessel must at once enter inward at the Custom House, and upon the completion of her loading, clear outwards for her port of destination."

#### AMERICAN FISHERMEN ARE NOT OUTCASTS.

The foregoing contention, set up not merely by the Canadian Privy Council, but by the Governor General of the Dominion of Canada, sweeps into the meshes of Canadian legislation to enforce the first Article of the Treaty of 1818, every deep-sea fisherman, in his relation to Canadian ports, no matter on what sea or ocean, Atlantic or Pacific, he may have pursued, or may intend to pursue, his industry. That contention places all American deep-sea fishermen entitled to wear the flag of the Union at the mast-head of their boats or vessels, be they little or big, under much the same ban in respect to the hospitality of Canadian ports as they would be if pirates, or slave-traders, or filibusters, or other enemies of the human race. "She was a *fishing vessel*," says, on June 5, 1886, the Canadian Minister of Marine and Fisheries, "and therefore debarred by the Treaty of 1818 from entering Canada for the purposes of trade." "The two vessels which have been seized are, both of them, beyond all question *fishing vessels* and not traders," says the Governor General of the Dominion of Canada to Lord Granville on June 7, 1886, "and therefore liable, subject to the finding of the courts, to any penalties imposed by law for the enforcement of the Convention of 1818." "We cannot concur in Mr. Bayard's contention," said the Canadian Privy Council on June 14, 1886, that "to prevent the purchase of bait or any other supply needed for deep-sea fishing, would be to expand the Convention to objects wholly beyond the purview, scope, and intent of the Treaty, and give to it an effect never contemplated." "American deep-sea fishermen cannot," said the Canadian Minister of Marine and Fisheries, on October 14, 1886, "obtain supplies for the prosecution of his fishing, and to tranship his cargoes of fish at a Canadian port," because both "are contrary to the letter and spirit of the Convention of 1818." "The Convention of 1818," said a Committee of the Canadian Privy Council, on October 30, 1886, "does not confer upon United States' fishermen 'privileges of trading or of shipping men' in Canadian ports." And, finally, a Committee of the Canadian Privy Council declared, in effect, on November 24, 1886, that an American vessel, *manned, equipped and prepared for taking fish*, has not the liberty of commercial intercourse in Canadian ports, such as are applicable to other regularly registered foreign merchant vessels.

Such an interpretation of the present legal effect of the first article of the Treaty of 1818, is, in the opinion of your Committee, so preposterous, in view of concerted laws of comity and good neighbourhood enacted by the two countries, that, had it not been formally put forth by the Dominion of Canada, would not deserve serious consideration by intelligent persons. If all the stipulations of 1818 restraining American fishermen are now in full force (which may well be doubted), your Committee concedes that American fishermen have no more liberty to take fish or to dry or cure fish in what has been described as portion B, than a British

fisherman has to take fish in the inner harbour of New York, and to dry or cure fish in the City Hall Park of that city. But the liberty of an American fisherman to take, dry, and cure fish in portion A, in common with British subjects, is as complete and absolute as is the right of citizens of New York to fish in the waters of the Hudson River. The Treaty of 1818 furnishes no more excuse for the exclusion of a deep-sea fisherman from the port of Halifax, or any other open port of the Dominion of Canada, than for the exclusion by the Secretary of the Treasury of a deep-sea fisherman from entering the port of New York according to the forms of law, and for the ordinary purposes of trade and commerce. The exclusion, if made, must be justified, if at all, for other reasons than any yet given by Canada.

Keeping in mind the words of the third article of the Treaty of Peace in 1783, which not only acknowledged the *right* of the united American Colonies to fish in the open sea as freely as to navigate the open sea, but also acknowledged and stipulated for the *liberty* to "take fish of every kind" on coasts, bays, and creeks of *all* of His Britannic Majesty's dominions in America, it will be discerned that this contention of the Privy Council of Canada makes of the renunciation by the United States, in 1818, of the liberty theretofore enjoyed or claimed by American fishermen within three miles of certain carefully defined coasts, bays, creeks, or harbours, not merely a renunciation of specific local liberty, but a forsaking, a relinquishment, a surrender, an abandonment by the United States of other rights held up to 1818.

#### CERTAIN CANADIAN COASTS ARE SUBSERVIENT TO AMERICAN FISHERMEN.

The Treaty of 1783 diminished and impaired, and was intended to diminish and impair, British sovereignty over the remaining British Colonies of North America. The United States had conquered full and complete dominion over the right of fishing in the jurisdictional waters of each of the thirteen United States, but the British Colonies did not emerge from the negotiations of the Treaty of Peace with similar dominion over the fisheries on the shores and coasts of the thirteen recognized States. British fishermen cannot fish on the coasts of Massachusetts, but American fishermen can fish on certain shores and coasts of the Dominion of Canada and of Newfoundland. Apart from fishing and the incidents of fishing, it is conceded that the British Government has exclusive control, as against the United States, of the customary and usual rights of navigation in the jurisdictional waters of the British Colonies. What we claim for ourselves, under the rules of public law, and apart from treaties, we concede to others. Rights of *navigation* are ordinarily separate from rights of *fishing*. The Commonwealth of Massachusetts may control the right and liberty of *fishing* on her coast, as against any power other than the Government of Washington, but the right of navigation of the jurisdictional waters of Massachusetts is always subject to the control of the United States. The *use* of waters in respect of navigation is easily distinguishable from the *fruit* of waters in respect to fishing or fish. The United States have, so far as the British North American Colonies, and all the world, are concerned, the right of navigating and fishing on the high seas, and in addition the right of *fishing* in certain British territorial and jurisdictional waters. That right of fishing, either inshore or offshore, should carry with it the natural and necessary navigating incidents of the right.

It may be conceded that, apart from the right of American fishermen to take fish of all kinds within certain clearly defined British waters, American deep-sea fishermen have no greater rights, by Treaty or public law, in British ports, than British fishermen have in American ports, so far as concerns revenue police, maritime tolls or taxes, pilotage, light-houses, quarantine, and all matters of ceremonial. But the contention of the Privy Council of Canada is that if a vessel bearing the registry, or enrolment, or license of the Treasury Department (which alone makes her an American vessel) be licensed, equipped and under contract with her seamen as an American fisherman on the open sea, she thereby comes under the ban of the Treaty of 1818, and is thereby abandoned by the nation whose flag is at her mast-head, and is, by the Treaty, excluded from an entrance into a Canadian or Newfoundland port, excepting for one of the objects enumerated in that Treaty. Canadian ports are closed to her as to an outcast. An American or a Canadian fishing vessel on the high seas, and lawfully wearing the flag of its country, should be, if permitted by its own Government to touch and trade, entitled to the same rights of navigation and the same treatment in a foreign port as any trading vessel.

#### CANADIAN INHUMANITY.

If the Privy Council and the Governor General of the Canadian Dominion excluded all American vessels from all rights of touching or trading in Canadian ports, excepting to obtain shelter, repairs, wood or water, the contention would be logical and more tolerable; but to every American vessel other than a fishing vessel, be the fisherman big or little—a schooner, a sloop, a ship, or a steamer of large tonnage—Canadian ports seem to be wide open. If,

however, she be an American fishing vessel on the high seas, she cannot go into a Canadian bay even to bury those of her dead who, in life, may have been British subjects with a domicile in Canada and a residence on the land near the bay, and may have expressed a wish not to be committed to the sea, but to be lain at rest by their kindred on the spot which gave them birth.

The Treaty of 1818 gave rights of fishing independent of general commercial rights, although it may be said that, as to shelter, repairs, wood and water, the Treaty did give to fishermen certain commercial rights, or rather a few rights of humanity. The Treaty did not restrain the granting or the exercising of commercial rights. The right, if it be a right, of an American to buy anything in Canada does not come of the inshore Fishing Treaty of 1818. Your Committee are not aware of any Canadian or Newfoundland law which, having been approved by the British Crown, forbids a British subject to there sell ice, or bait, or anything else, to an American, or to trade with him. If there be such a law, then non-intercourse has to that extent been proclaimed against our countrymen.

#### CANADIAN VIOLATIONS OF TREATIES.

The contention of your Committee is that the Treaty of 1818 covers differences and disputes about the liberty of American fishermen to take, dry and cure fish on certain British North American coasts, bays, harbours and creeks. The Privy Council of Canada, at the bottom of page 32 (Ex. Doc. No. 19, Forty-ninth Congress, second session), concedes the correctness of this contention. They say:

"The sole purpose of the convention of 1818 was to establish and define the rights of citizens of the two countries in relation to the *fisheries* on the British North American coast."

The Treaty is limited to coast fishing, drying or curing. On certain defined portions of the coast "American fishermen" may fish, but elsewhere on the coast they may not fish, and yet those coast "American fishermen" may, nevertheless, and for certain purposes, enter the bays and harbours in which they cannot fish, under restrictions—to prevent them from doing what? "Taking, drying or curing fish *therein*?"

Your Committee contend that the term "American fishermen" as used in the Treaty of 1818, means the "American fishermen" of and under that Treaty. The rule *noscitur a sociis*, as understood and applied by judges and lawyers in England and America, limits and defines the term. They have a Treaty right to enter "such bays and harbours" and to remain there, subject, and subject only, to such restrictions "as may be necessary to prevent their taking, drying or curing fish therein." The restrictions can only apply to the prevention of such *fishing* in those bays or harbours. Whatever concerns or is preparation for fishing elsewhere is not thereby to be prevented. It is true that, by the Treaty of 1818, we have stipulated that our fishermen "shall be under such restrictions as may be necessary to *prevent* their taking, drying or curing fish *therein*," but the Treaty says nothing of "preparing to fish" somewhere else. A fair presentation of the opinions of the Vice-Admiralty Court of Canada, in regard to the meaning of the Canadian phrase "preparing to fish"—which is a stranger to the Treaty of 1818—can be seen in Dr. Wharton's "International Law Digest," Vol. III, § 304.

If it be said that our view of the treaty is strict, severe, and rigid as against Canadian statutes and officials, your Committee answer that when Canada proposes and endeavours to use a treaty to arrest and fine American fishermen, seize and confiscate American vessels for the benefit of Canadian seizers, the Government of the United States is entitled to stand on such an interpretation. But even if the Treaty of 1818 covers (which it does not) every American fisherman entering a Canadian harbour, on whatever sea or ocean he may cast a line or draw a seine, the Canadian statutes do not preserve and enforce the treaty. They destroy it, so far as the privileges are concerned that are given to American fishermen by the treaty.

First of all in order of time and authority is the Imperial legislation at London in 1819 to enforce the treaty of the previous year. After forbidding every one, excepting British subjects and American citizens (who could do so within defined limits), to fish, dry, or cure fish anywhere within three miles of British coasts in America, that law of 1819 punishes by forfeiture any offending vessel, and all the articles on board. Then comes this:

"That if any person or persons, upon requisition made by the Governor of Newfoundland, or the person exercising the office of governor, or by any governor or person exercising the office of governor, in any other parts of His Majesty's dominions in America, as aforesaid, or by any officer or officers acting under such governor or person exercising the office of governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbors; or if any person or persons shall refuse or neglect to conform to any regulations or directions which

shall be made or given for the execution of any of the purposes of this Act, every such person so refusing or otherwise offending against this Act shall forfeit the sum of £200, to be recovered, &c."

It will be seen that not forfeiture, but a fine to be recovered by a suit, is inflicted for refusing or neglecting to depart on notice. The statutes of Canada are not, as the Canadian Privy Council asserted (p. 32), "expressed in almost the same language" as the foregoing Imperial statute.

The Prince Edward Island's enactment of 1844 gives the key-note of Canadian enactments. It declares:

"Whereas by the convention (made between his late Majesty King George the Third and the United States of America, signed at London, on the twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen,) and the statute (made and passed in the Parliament of Great Britain in the fifty-ninth year of the reign of his late Majesty King George the Third,) all foreign ships, vessels or boats, or any ship, vessel or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coast, bays, creeks or harbours whatever, in any part of His Majesty's dominions in America not included within the limits specified in the first article of the said convention, are liable to seizure; and whereas the United States did, by the said convention, renounce for ever any liberty enjoyed or claimed by the inhabitants thereof to take, dry or cure fish on or within the above mentioned limits: *Provided however*, that the American fishermen be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them; and whereas no rules or regulations have been made for such purpose, and the interests of the inhabitants of this island are materially impaired; and whereas the said Act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens that persons found within the distances of the coasts aforesaid, infringing the articles of the convention aforesaid, and the enactments of the statute aforesaid, on being taken possession of, profess to have come within said limits for the purpose of shelter and repairing damages therein, or to purchase wood and obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this island, and the fishery carried on contrary to the said convention and statute."

The Canadian enactment of 1868 came next, the second and third sections of which say:

"2. Any commissioned officer of Her Majesty's navy serving on board of any vessel of Her Majesty's navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel or boat within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours in Canada, and stay on board so long as she may remain within such place or distance.

"3. If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbour or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel or boat into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit \$400; and if such ship, vessel or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks or harbours of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel or boat under the first section of this Act, such ship, vessel or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited."

The treaty stipulates that the fishermen shall be under "necessary restrictions" to prevent the doing of the things forbidden by the treaty, but what may be "necessary" to prevent the prohibited fishing is a political and diplomatic question for the two signatory Governments to decide. The treaty permits American fishermen to enter and remain for—

1. "Shelter," which includes a refuge from fogs, winds, storms, and whatever may imperil fishing.

2. "Repairing damages," which includes every damage to fishing boat or fishing gear.
3. "Purchasing wood."
4. "Obtaining water."

Conceding that Canada can place an officer on every arriving fisherman as soon as found, the treaty does not even then authorize a twenty-four hour limit with the result of forfeiture. Nor does the treaty authorize forfeiture for "*preparing to fish*."

The Customs circular issued at Ottawa on 7th May, 1886, and called a "Warning," recited the first article of the Treaty of 1818, together with the two sections of the law of 1868 just quoted, and adds:

"Having reference to the above, you are requested to furnish any foreign vessels, boats, or fishermen found within three marine miles of the shore, within your district, with a printed copy of the warning enclosed herewith.

"If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or hovering within the three-mile limit, does not depart within twenty-four hours *after receiving such warning*, you will please place an officer on board of such vessel, and at once telegraph the facts to the Fisheries Department at Ottawa, and await instructions.

"J. JOHNSON,  
"Commissioner of Customs."

To the COLLECTOR OF CUSTOMS at ———

Thus, twenty-four hours after finding the American fisherman is made the limit.

Not satisfied with the severity of this legislation of 1868, the Canadian Dominion, in 1870, and while preliminary negotiations for the joint high commission and the Treaty of Washington were in progress, amended it so as to enable seizures of our vessels to be made on sight, and without any warning or any notice to depart. The following is a text of the enactment of 1870:

"(33 Victoria, chap. 15.)

"An Act to amend the Act respecting fishing by foreign vessels. Assented to 12th May, 1870.

"Whereas it is expedient, for the more effectual protection of the inshore fisheries of Canada against intrusion by foreigners, to amend the Act entitled "An Act respecting fishing by foreign vessels," passed in the thirty-first year of Her Majesty's reign: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

"1. The third section of the above-cited Act shall be, and is hereby repealed, and the following section is enacted in its stead:

"3. Any one of such officers or persons as are above-mentioned may bring any ship, vessel, or boat being within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours in Canada, into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination he shall forfeit \$400; and if such ship, vessel, or boat be foreign or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours of Canada, not included within the above-mentioned limits, without a license or after the expiration of the period named in the last license granted to such ship, vessel, or boat, under the first section of this Act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited."

"2. This Act shall not be construed as one with the said Act 'respecting fishing by foreign vessels.'"

But this is not all. Canadian officials endeavoured, during the last summer, in the fury of their malevolence, to forfeit American vessels for acts which, if committed, their own laws had not inflicted punishment. In the libel of information against the "Ella M. Doughty" is this article, among other allegations of fishing, preparing to fish, being found having fished, and fishing, drying, and curing in the bay and harbour of St. Anne's:

"Between the 10th and 17th days of May, 1886, the said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty," and the officers and crew of the said ship or vessel "Ella M. Doughty, did, in and with the said ship or vessel "Ella M. Doughty," enter into the bay and harbour of St. Anne's aforesaid within three marine miles of the shore of said bay and harbour of St. Anne's, and within three miles of the coasts, bays, creeks, and harbours of those portions of the dominions in America of his said late Majesty King George

the Third, being now the dominions in America of her Majesty Queen Victoria. not included in the limits specified and defined in the said first article of the said convention and set out and recited in the first paragraph hereof, *for the purpose of procuring bait*, that is to say, herrings, wherewith to fish, *and ice for the preservation on board said vessel of bait to be used in fishing*, and of fresh fish to be fished for, taken, and caught by and upon the said vessel and by the master, officers, and crew thereof. and *did procure such bait* wherewith to fish, and *such ice* for the purposes aforesaid, and did so enter for other purposes than for the purposes of shelter or repairing damages, or of purchasing wood, or of obtaining water, contrary to the provisions of the said convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coast or shores of the said bay and harbor of St. Anne's by Donald McAuley and Lauchlin G. Campbell, officers of the Customs of Canada, as being liable to forfeiture for the breach or violation of the said convention and of the said several Acts.' "

Your Committee has been unable to find a Canadian statute which, at the date of the alleged offence, punished those acts, by forfeiture of the offending vessel. None is averred. The article quoted from the "Ella M. Doughty" libel does not set forth where the fishing was to be done, for which bait and ice were bought, whether on the ocean, or elsewhere, outside of Canadian jurisdiction. The laws of 1868 and 1870 denounce only fishing or preparing to fish "*in British waters*," which must be, of course, under the treaty, the prohibited and not permitted British waters.

Thus stood Canadian legislation at the beginning of the summer fishing season which has recently come to an end. There was no Canadian or other law, at the end of forty-eight years from the date of the treaty, inflicting forfeiture of the vessel and the cargo on board excepting on proof of the offence of fishing or having been found to have fished, or preparing to fish, on the prohibited coasts. But Canadian officials wished to forfeit the vessels and cargoes of American deep sea fishermen exercising the liberty "to touch and trade," and send fish by railway, or vessel, to our own markets. What could be done? Nothing less than a new law could avail them, and it was enacted in these words:

"(49 Victoria, chap. 114.)

"An Act further to amend the act respecting fishing by foreign vessels.

"(Reserved by the Governor General on Wednesday, 2nd June, 1886, for the signification of the Queen's pleasure thereon. Royal assent given by Her Majesty in Council, on the 26th day of November, 1886. Proclamation thereof made on the 24th day of December, 1886.)

"Whereas it is expedient for the more effectual protection of the inshore fisheries of Canada against intrusion by foreigners, to further amend the act intituled 'An Act respecting fishing by foreign vessels,' passed in the thirty-first year of Her Majesty's reign, and chaptered 61:

"Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

"1. The section substituted by the first section of the Act thirty-third Victoria, chapter 151, intituled 'An Act to amend the Act respecting fishing by foreign vessels,' for the third section of the hereinbefore recited Act, is hereby repealed, and the following section substituted in lieu thereof:

"3. Any one of the officers or persons hereinbefore mentioned may bring any ship, vessel, or boat, being within any harbour of Canada, or hovering in British waters within three marine miles of any of the coasts, bays, creeks, or harbours in Canada, into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command does not truly answer the questions put to him in such examination, he shall incur a penalty of \$400.00; and if such ship, vessel, or boat is foreign, or not navigated according to the laws of the United Kingdom or of Canada, and (A) has been found fishing, or preparing to fish, or to have been fishing in the British waters within three marine miles of any of the coasts, bays, creeks, or harbours of Canada, not included within the above mentioned limits, without a license, or after the expiration of the term named in the last license granted to such ship, vessel, or boat under the first section of this Act, or (B) *has entered such waters for any purpose not permitted by treaty or convention, or by any law of the United Kingdom or of Canada for the time being in force, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.*"

"2. The Acts mentioned in the schedule hereto are hereby repealed.

"3. This Act shall be construed as one with the said "*Act respecting fishing by foreign vessels*," and the amendments thereto.

## "SCHEDULE.

*"Acts of the Legislature of the Province of Nova Scotia.*

Year, Reign, and Chapter.	Title of Act.	Extent of Repeal.
Revised Statutes, 3rd series, c. 94.	Of the coast and deep-sea fisheries.....	The whole.
29 Vic. (1866), c. 35	An Act to amend chapter 94 of the Revised Statutes: "Of the coast and deep-sea fisheries"	The whole.

*Act of the Legislature of the Province of New Brunswick.*

16 Vic (1853), c. 69.	An Act relating to the coast fisheries and for the pre- vention of illicit trade.	The whole.
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By comparing the foregoing with the law of 1870 the object will, in the italicized portion of the former, be clearly discovered, which is to deter deep-sea American fishermen from entering Canadian ports which are as open to all trading vessels as American ports are to Canadian vessels of every sort.

Forfeiture is to be inflicted for an entry for any purpose, excepting shelter, repairs, wood, or water. Even to get coal for a fishing vessel propelled by steam is condemned. What the purpose may be for which seizure is to be made may or may not be disclosed by the seizer. The statute does not require it. The libel, or complaint, filed in court may not disclose it. The averment may be merely a general one that the vessel entered for a purpose forbidden by treaty or statute. The owner must file a claim and answer, or his property will be condemned by default. He must, among strangers, give security for costs, or his claim will be dismissed. Worse than that, the statute of 1863 declares that, if the owner questions the legality of the seizure, the burden of proof shall be on him. How can he meet a general averment and prove a negative of what is not definitely averred, and of every conceivable purpose of entry? None but the captain may be able to testify to the motive, and what will happen if he, after the seizure, shall die or be absent? The owner will be helpless to contend with the greed of informers or seizors, for the law of 1871 distributes the possible plunder thus:

"6. All goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo condemned as forfeited under this Act, shall be sold by public auction, by direction of the officer having the custody thereof, under the provisions of the next preceding section of this Act, and under regulations to be from time to time made by the Governor in Council; and the proceeds of every sale shall be subject to the control of the Minister of Marine and Fisheries, who shall first pay therefrom all necessary costs and expenses of custody and sale, and the Governor in Council may from time to time apportion three-fourths or less of the net remainder among the officers and crew of any Queen's ship or Canadian Government vessel, from on board of which the seizure was made, as he may think right, reserving for the Government and paying over to the Receiver-General at least one-fourth of such not remainder to form part of the Consolidated Revenue of Canada."

## CONCLUSIONS.

The Treaties of 1783 and 1818 were made with the British Crown. With that Crown alone can restrictions, regulations, penalties, and measures be concerted by the United States to enforce and guard their stipulations. With the Dominion of Canada the Government at Washington is not called, or required, or to be expected, either to deliberate or debate, any more than is the British Crown, with a separate member of our Union. It is not to be supposed that a local colonial court will, on the trial of a suit for forfeiture begun under an Imperial or a Colonial Statute, hear or decide an issue with the Treaty of 1818, or rules of international law, or those statutes. Nor will those courts award damages for seizures in violation of the treaty, if made on "probable cause" by the seizors to believe that the statutes had been violated. Nor can the United States appeal to colonial courts for redress against the possible conduct of those courts under influences of local passion or prejudice.

It plainly appears to your committee from the foregoing considerations that, by the treaty of peace in 1783, American citizens became partners with British subjects in all the coast fisheries in North America remaining to Great Britain; that the Treaty of Ghent, which closed the war of 1812, not having referred to the stipulations of the treaty of peace in any way affecting the fisheries, Great Britain thereupon urged and obtained in 1818 a diminution of American liberty to take fish on certain well-defined portions of the British coast in North America; that in 1819 there was enacted by Parliament, sitting in London, a law in execution of that treaty which punished by forfeiture of vessel and cargo a preparation to fish, and only by a fine a refusal or neglect to depart on a warning or notice so to do; that in 1844 the Island of Prince Edward enacted a law in punishment of what it assumed to be a violation of the treaty of 1818, which went far beyond the imperial statute of 1819; that in 1868 the Canadian Senate and House of Commons prescribed additional proceedings and penalties not warranted by the treaty, which were in 1870 made more severe and unwarranted and that in 1886, nearly half a century after signing the treaty, an offence, entirely new in legislation, was denounced in most general terms and punished by confiscation of everything seized.

#### THE BRITISH CROWN PROCLAIMS NON-INTERCOURSE.

A very serious feature of this last-named legislation is that it has been approved by the British Crown, and it proclaims non-intercourse in Canada with American fishing vessels for general purposes of trade. To that alarming feature your committee has given careful consideration, and is unanimously of opinion that if, and so long as, non-intercourse with American fishing vessels shall be thus maintained in the ports or bays of the Dominion of Canada or Newfoundland, a non-intercourse should be immediately begun and maintained in our own ports against Canadian vessels. Those vessels, whether trading or fishing, have, within the meaning of the seventeenth section of the law of Congress of 19th June, 1886, "been placed on the same footing" in our ports as our own vessels clearing or entering "foreign." Canadian vessels are British vessels. The British Crown has denied to American fishing vessels commercial privileges accorded to other national vessels in Canadian ports. The motive and purpose of such denial have been openly and plainly avowed by Canada to be, first, the punishment of such vessels because the United States levies a duty on Canadian fish not "fresh for immediate consumption," such as the Government levies on all such fish not the product of American fisheries and imported from any foreign place whatever; and, secondly, to coerce the United States to exempt such Canadian fish from all Customs duties, and to enter into other new reciprocal Customs relations with the Canadian Dominion and Newfoundland. It is a policy of threat and coercion, which, in the opinion of your committee, should be instantly and summarily dealt with. The circumstances will warrant and require, in the opinion of your committee, not only non-intercourse with Canadian vessels bringing Canadian or Newfoundland fish to our ports, but an exclusion of such fish from entry at our ports, whether brought by railway cars or by any other vehicle or means. It is difficult to believe that Canada having within the last twenty years so severely burdened herself with taxation by the construction of railways and bridges to bring about easy communication with Detroit, Chicago, Saint Paul, and the whole West of our country, as well as with New York and Boston, will now deliberately and offensively enter upon and pursue a policy toward our fishermen which, if persisted in, can but end either in a suspension of commercial intercourse, by land and sea, between her and ourselves, or in consequences even more grave.

#### A LAW TO MAKE A PERPETUAL RECORD OF THE FACTS.

And, furthermore, in regard to seizures of American vessels made during the summer which has just passed, inasmuch as a true record of the facts under which the seizures were made may be lost, by death of the victims, or by wanderings of a class so migratory as seamen, or by other casualties, and inasmuch as Congress may see fit to compensate American fishermen for the injuries wantonly inflicted on them by the rude hand of tyrannical Canadian officials, there having been no adequate American force at hand for their protection, your committee advise the enactment of the following:

"BILL for the appointment of a commission to investigate concerning losses and injuries, inflicted since December thirty-first, eighteen hundred and eighty-five, on United States citizens engaged in the North American fisheries.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and is hereby authorized to appoint a commissioner to proceed to such places in the United States or elsewhere as many be designated by the Secretary of State, to take testimony, under oath or affirmation, in relation

to the losses and injuries inflicted since the thirty-first of December, eighteen hundred and eighty-five, by British authorities, imperial or colonial, upon citizens of the United States engaged in the fisheries on the north-east coasts of British North America. Said commissioner shall everywhere have, in respect to the administration of oaths or affirmations and the taking of testimony, the same powers as a commissioner of a circuit court, and shall be paid the same fees as are prescribed for similar services of a commissioner of a circuit court, together with travelling expenses."

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No. 175.

*Sir H. Holland to the Marquis of Lansdowne.*

(No. 19.)

DOWNING STREET, 24th January, 1887.

MY LORD,—With reference to my predecessor's telegram of the 24th, and to your reply of the 26th ultimo, I have the honour to transmit to you, for the information of your Government, a copy of a letter from the Foreign Office enclosing a note to the United States' Minister at this Court, in reply to a request from his Government that the owners of the "David J. Adams" might be furnished with copies of certain documents relating to the case.

I have, &c.,

(Sd.) H. T. HOLLAND.

Governor General,

The Most Honourable

The MARQUIS OF LANSDOWNE,

&c., &c., &c.

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[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 11th January, 1887.

SIR,—With reference to your letter of the 29th ultimo, I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a note which has been addressed to the United States' Minister at this Court, in reply to his note of the 2nd ultimo, requesting that the owners of the "David J. Adams" be furnished with copies of the original reports stating the charges on which that vessel was seized by the Canadian authorities.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE  
Colonial Office.

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[Enclosure No. 2.]

*The Earl of Iddesleigh to Mr Phelps.*

FOREIGN OFFICE, 11th January, 1887.

SIR,—Her Majesty Government have had under their consideration the request contained in your note of the 2nd ultimo, to the effect that the owners of the "David J. Adams" may be furnished with copies of the original reports stating the charges on which that vessel was seized by the Canadian authorities; and I have now the honour to state to you that if the

owners of this vessel are legally entitled to be furnished with those reports they can obtain them by the process of the courts; and there seems no ground for the interference of Her Majesty Government with the ordinary course of justice.

As regards the means of obtaining information for the purposes of the defence, I would point out that in the report of the Canadian Minister of Marine and Fisheries, of which a copy was communicated to you on the 23rd July last, it is stated that from a date immediately after the seizure "there was not the slightest difficulty in the United States' Consul General and those interested in the vessel obtaining the fullest information" and that apart from the general knowledge of the offences which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the registry of the court, and from the solicitors for the Crown.

With respect to the statement in your note that a clause in the Canadian Act of 22nd May, 1868, to the effect that "In case a dispute arises as to whether any seizure has or has not been legally made, or as to whether the person seizing was, or was not authorized to seize under this Act, the burden of proving the illegality of seizure shall be on the owner or claimant" is in violation of the principles of natural justice, as well as of those of common law. I have to observe that the statute referred to is Cap. 61 of 1868 which provides for the issue of licenses to foreign fishing vessels, and for the forfeiture of such vessels fishing without a license, and that the provisions of article 10, to which you take exception are commonly found in laws against smuggling, and are based on the rule of law that a man who pleads that he holds a license or other similar document shall be put to the proof of his plea, and required to produce the document.

I beg leave to add that the provisions of that statute, so far as they relate to the issue of licenses, have been inoperative since the year 1870.

I have, &c.,

(Sd.) IDDESLEIGH,

E. J. PHELPS, Esq.

No. 176.

*Sir L. West to Lord Lansdowne.*

(No. 7.)

WASHINGTON, 26th January, 1887.

Vide U.S. Senate  
Report No. 1683  
and Bill founded  
thereon. S. No.  
3173.

MY LORD,—I have the honour to transmit to Your Excellency herewith copies of a Report laid before the Senate on the 24th instant, as well as of the Bill founded thereon relative to the Fishery Question.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency

The MARQUIS OF LANSDOWNE, G.C.M.G.

No. 177.

*Lord Lansdowne to Colonial Office.*

(No. 26.)

OTTAWA, 21st January, 1887.

SIR,—With reference to Mr. Stanhope's despatch No. 244, of the 22nd November last, transmitting copies of two letters from the Foreign Office enclosing notes from the Secretary of State of the United States, respecting the alleged proceedings of the Canadian authorities in the cases of the United States' fishing vessels "Pearl Nelson" and "Everitt Steele," I have the honour to forward herewith a copy of an approved Report of a Committee of the Privy Council embodying a report of my Minister of Marine and Fisheries on the subject.

You will observe, from the accompanying Minute of Council, that in reply to a telegram from the Secretary of State for the Colonies, dated the 6th November last, copies of Orders in Council, approved on the 18th of the same month, containing full statements of facts regarding the detention of the above-named vessels, were enclosed in my despatches Nos. 282 and 283 of the 29th November last.

I have, &c.,

The Rt. Hon.

(Sd.) LANSDOWNE.

THE SECRETARY OF STATE

For the Colonies.

[Enclosure No. 1.]

(493 G.)

*CERTIFIED COPY of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council, on the 15th January, 1887.*

The Committee of the Privy Council have had under consideration a despatch dated 22nd November, 1886, from the Right Honourable the Secretary of State for the Colonies, enclosing letters from Mr. Secretary Bayard, bearing date 19th October, and referring to the cases of the schooners "Everitt Steele" and "Pearl Nelson."

The Minister of Marine and Fisheries, to whom the despatch and enclosures were referred, reports that in reply to a telegram from the Secretary of State for the Colonies, an Order in Council, passed on the 18th November last, containing a full statement of facts regarding the detention of the above-named vessels, was transmitted to Mr. Stanhope. It will not, therefore, be necessary to repeat this statement in the present report.

The Minister observes, in the first place, that the two fishing schooners, the "Everitt Steele" and "Pearl Nelson" were not detained for any alleged contravention of the Treaty of 1818, or the Fishery Laws of Canada, but solely for the violation of the Custom's Law. By this law all vessels of whatever character are required to report to the Collector of Customs immediately upon entering port, and are not to break bulk or land crew or cargo before this is done.

The Minister states that the Captain of the "Everitt Steele" had, on a previous voyage, entered the Port of Shelburne on the 25th March, 1886, and after remaining for eight hours had put to sea again without reporting to the Customs. For this previous offence, he was, upon entering Shelburne Harbour on the 10th September last, detained, and the facts were reported to the Minister of Customs at Ottawa. With these facts was coupled the Captain's statement that on the occasion of the previous offence he had been misled by the Deputy Harbour Master, from whom he understood that he would not be obliged to report unless he remained in harbour for 24 hours.

The Minister accepted the statement in excuse as satisfactory, and the "Everitt Steele" was allowed to proceed on her voyage.

The Customs Law had been violated. The Captain of the "Everitt Steele" had admitted the violation, and for this the usual penalty could have been legally enforced. It was, however, not enforced, and no detention of the vessel occurred beyond the time necessary to report the facts to headquarters and obtain the decision of the Minister.

The Minister submits that he cannot discern in this transaction any attempt to interfere with the privileges of United States' fishing vessels in Canadian waters or any sufficient cause for the protest of Mr. Bayard.

The Minister states that, in the case of the "Pearl Nelson," no question was raised as to her being a fishing vessel, or her enjoyment of any privileges guaranteed by the Treaty of 1818. Her Captain was charged with a violation of the Custom's Law and of that alone, by having, on the day before reporting to the Collector of Customs at Arichat, landed ten of his crew.

This he admitted upon oath. When the facts were reported to the Minister of Customs he ordered that the vessel might proceed upon depositing \$200.00 pending a fuller examination. This was done, and the fuller examination resulted in establishing the violation of the law and in finding that the penalty was legally enforceable. The Minister, however, in consideration of the alleged ignorance of the captain as to what constituted an infraction of the law, ordered the deposit to be returned.

In this case there was a clear violation of Canadian law, there was no lengthened detention of the vessel, the deposit was ultimately remitted and the United States' Consul General at Halifax, expressed himself by letter to the Minister as highly pleased at the result.

The Minister observes that in this case he is at a loss to discover any well-founded grievance or any attempted denial of or interference with any privileges guaranteed to United States' fishermen by the Treaty of 1818.

The Minister further observes that the whole argument and protest of Mr. Bayard appears to proceed upon the assumption that these two vessels were subjected to unwarrantable interference, in that they were called upon to submit to the requirements of Canadian Customs law, and that this interference was prompted by a desire to curtail or deny the privileges of resort to Canadian harbours for the purposes allowed by the Treaty of 1818. It is needless to say that this assumption is entirely incorrect.

Canada has a very large extent of sea coast with numerous ports into which foreign vessels are constantly entering for purposes of trade. It becomes necessary in the interests of legitimate commerce that stringent regulations should be made by compulsory conformity to which, illicit traffic should be prevented.

These Customs' regulations all vessels of all countries are obliged to obey, and these they do obey without in any way considering it a hardship. United States fishing vessels come directly from a foreign and not distant country, and it is not in the interests of legitimate Canadian commerce that they should be allowed access to our ports without the same strict supervision as is exercised over all other foreign vessels. Otherwise there would be no guarantee against illicit traffic of large dimensions to the injury of honest trade and the serious diminution of the Canadian revenue. United States' fishing vessels are cheerfully accorded the right to enter Canadian Ports for the purposes of obtaining shelter, repairs, and procuring wood and water, but in exercising this right, they are not and cannot be independent of the Customs' laws.

They have the right to enter for the purposes set forth, but there is only one legal way in which to enter and that is by conformity to the Customs' regulations.

When Mr Bayard asserts that Captain Forbes had as much right to be in Shelburne Harbour seeking shelter and water "as he would have had on the high seas carrying on under the shelter of the flag of the United States legitimate commerce," he is undoubtedly right, but when he declares as he in reality does, that to compel Captain Forbes in Shelburne Harbour to conform to Canadian Customs' regulations, or to punish him for their violation, is a more unwarrantable stretch of power than "that of a seizure on the high seas of a ship unjustly suspected of being a slaver," he makes a statement which carries with it its own refutation. Customs' regulations are made by each country for the protection of its own trade and commerce, and are enforced entirely within its own territorial jurisdiction; while the seizure of a vessel upon the high seas, except under extraordinary and abnormal circumstances, is an unjustifiable interference with the free right of navigation common to all nations.

As to Mr. Bayard's observation that by treatment such as that experienced by the "Everitt Steele" "the door of shelter is shut to American fishermen as a class," the Minister expresses his belief that Mr. Bayard cannot have considered the scope of such an assertion or the inferences which might reasonably be drawn from it. If a United States' fishing vessel enters a Canadian port for shelter, repairs or for wood and water her Captain need have no difficulty in reporting her as having entered for one of these purposes and the "Everitt Steele" would have suffered no detention had her Captain on the 25th March simply reported his vessel to the collector. As it was, the vessel was detained for no longer time than was necessary to obtain the decision of the Minister of Customs, and the penalty for which it was liable was not enforced. Surely Mr. Bayard does not wish to be understood as claiming for United States' fishing vessels total immunity from all Customs regulations or as intimating that if they cannot exercise their privileges unlawfully they will not exercise them at all.

Mr. Bayard complains that the "Pearl Nelson," although seeking to exercise no commercial privileges, was compelled to pay commercial fees such as are applicable to trading vessels. In reply the Minister observes that the fees spoken of are not "Commercial fees;" they are harbour masters' dues which all vessels making use of legally constituted harbours are by law compelled to pay, and entirely irrespective of any trading that may be done by the vessel.

The Minister observes that no single case has yet been brought to his notice in which any United States' fishing vessel has in any way been interfered with for exercising any rights guaranteed under the Treaty of 1818, to enter Canadian ports for shelter, repairs, wood or water; that the Canadian Government would not countenance or permit any such interference, and that in all cases of this class when trouble has arisen, it has been due to the violation of Canadian Customs law, which demands the simple legal entry of the vessel as soon as it comes into port.

The Committee, concurring in the above Report, recommend that Your Excellency be moved to transmit a copy thereof to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
Clerk, Privy Council.

No. 178.

*Governor General to Secretary of State for the Colonies.*

OTTAWA, 1st February, 1887.

SIR,—With reference to Mr. Stanhope's despatch of the 30th December last, transmitting a copy of a note from the United States' Minister in London, enclosing an outline for an *ad interim* arrangement between the British and United States' Governments on the subject of the North American Fisheries, together with a copy of a despatch from Mr. Bayard, containing some observations thereon. I have the honour to forward herewith a copy of an approved report of a Committee of the Privy Council of Canada containing the views of my Government on the subject.

I have, &c.,

(Sd.) LANSDOWNE.

The Right Honourable

THE SECRETARY OF STATE,  
For the Colonies.

[Enclosure No. 1.]

[P.C. No. 540, G.]

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 1st February, 1887.

The Committee of the Privy Council have had under consideration a despatch dated 30th December, 1886, from the Right Honourable the Secretary of State for the Colonies, forwarding, for the information of the Canadian Government, a note received through the Foreign Office from the United States' Minister in London, enclosing a draft of a memorandum for an arrangement between the British and United States' Governments on the subject of the North American Fisheries, entitled a "proposal for the settlement of the question in dispute in relation to the fisheries on the north-eastern coasts of British North America," accompanied by a despatch dated Washington, 15th November, 1886, from Mr. Bayard, United States' Secretary of State, containing some observations thereon. Mr. Secretary Stanhope requests Your Excellency to obtain, at the earliest possible moment, from Your Excellency's advisers their views on Mr. Bayard's proposals and to report them to Her Majesty's Government.

The Minister of Marine and Fisheries, to whom the despatch and enclosures have been referred, reports that Mr. Bayard suggests that as the season for taking mackerel has now closed, "a period of comparative serenity may be expected, of which advantage should be taken in order to adopt measures which will tend to make more harmonious the relations between Canada and the United States as regards the fisheries on the coasts of Canada."

The Minister observes that while any indication of a disposition on the part of the United States' Government to make arrangements which might tend to put the affairs of the two countries on a basis more free from controversy and misunderstanding than at present exists, must be hailed with satisfaction by the Government of Canada, it is to be regretted that the language in which Mr. Bayard refers to what has taken place during the past year indicates a disposition on his part to attribute to unfriendly motives the proceedings of the Canadian Government and a tendency to misapprehend the character and scope of the

measures which have been taken by it in order to enforce the terms of the Treaty of 1818, and to ensure respect for the municipal laws of the Dominion.

The Minister submits therefore that he cannot avoid protesting against such expressions in Mr. Bayard's letter as those in which he alludes to the proceedings of the last few months as "the administration of a strained and vexatious construction of the Convention of 1818," as "unjust and unfriendly treatment by the local authorities," as "unwarranted interferences (frequently accompanied by rudeness and unnecessary demonstration of force)" with the rights of the United States' fishermen guaranteed by express treaty stipulations and secured to them by the commercial laws and regulations of the two countries, and which are demanded by the laws of hospitality to which all friendly civilized nations owe allegiance," and as "conduct on the part of the Canadian officials which may endanger the peace of two kindred friendly nations."

The Minister has to observe again what has frequently been stated in the negotiations on this subject that nothing has been done on the part of the Canadian authorities since the termination of the Treaty of Washington in any such spirit as that which Mr. Bayard condemns, and that all that has been done with a view to the protection of the Canadian fisheries has been simply for the purpose of guarding the rights guaranteed to the people of Canada by the Convention of 1818, and to enforce the Statutes of Great Britain and of Canada in relation to the fisheries.

It has been more than once pointed out, in reports already submitted by the Minister of Marine and Fisheries that such statutes are clearly within the powers of the respective Parliaments by which they were passed, and are in conformity with the Treaty of 1818, especially in view of that passage of the treaty which provides that the American fishermen shall be under such restrictions as shall be necessary to prevent them from abusing the privileges thereby reserved to them.

The Minister has further to call the attention of Your Excellency to the fact that there is no foundation whatever for the following statement in the concluding part of Mr. Bayard's letter:

"The numerous seizures made have been of vessels quietly at anchor in established ports of entry, under charges which up to this day have not been particularized sufficiently to allow of intelligent defence. Not one has been condemned after trial and hearing, but many have been fined without hearing or judgment for technical violation of alleged commercial regulations, although all commercial privileges have been simultaneously denied to them."

The Minister observes in relation to this paragraph that the seizures of which Mr. Bayard complains have been made under circumstances which have from time to time been fully reported to Your Excellency and communicated to Her Majesty's Government, and upon grounds which have been distinctly and unequivocally stated in every case; that, although the nature of the charges has been invariably specified and duly announced, those charges have not in any case been answered; that ample opportunity has in every case been afforded for a defence to be submitted to the executive authorities, but that no defence has been offered, beyond the mere denial of the right of the Canadian Government; that the courts of the various Provinces have been open to the parties said to have been aggrieved, but that not one of them has resorted to these courts for redress. To this it must be added, that the illegal acts which are characterized by Mr. Bayard as "technical violations of alleged commercial regulations," involved breaches, in most of the cases not denied by the persons who had committed them, of established commercial regulations, which, far from being specially directed or enforced against citizens of the United States, are obligatory upon all vessels (including those of Canada herself) which resort to the harbours of the British North American coast.

With regard to the proposal for a settlement which accompanies Mr. Bayard's letter, the Minister submits the following observations:

ARTICLE I. The Minister observes that, in referring to this Article Mr. Bayard states that he is "encouraged in the expectation that the propositions embodied in the memorandum will be acceptable to Her Majesty's Government, because, in the month of April, 1866, Mr. Seward, then Secretary of State, sent forward to Mr. Adams, at that time United States' Minister in London, the draft of a Protocol, which, in substance, coincides with the first Article of the Proposal," now submitted. In regard to this statement, it is to be remarked that Article I of the memorandum, although, no doubt, to some extent resembling the Protocol submitted, in 1866, by Mr. Adams to Lord Clarendon, contains several most important departures from the terms of that Protocol. These departures consist not only in such comparatively unimportant alterations as the substitution in line 1 of the word "establish" for the word "define," without any apparent necessity for the change, and in other minor alterations in the text, but also in such grave changes as that which is involved in the interpolation in Section I of the important passage, in which it is stipulated: "That the bays and harbours from which American vessels are in future to be excluded save for the purposes for

which entrance into bays and harbours is permitted by said Article, are hereby agreed to be taken to be such bays and harbours as are ten or less than ten miles in width, and the distance of three marine miles from such bays and harbours shall be measured from a straight line drawn across the bay or harbour in the part nearest the entrance at the first point when the width does not exceed ten miles."

This provision would involve a surrender of fishing rights which have always been regarded as the exclusive property of Canada, and would make common fishing grounds of territorial waters which by the law of nations have been invariably regarded both in Great Britain and the United States as belonging to the adjacent country. In the case, for instance, of the Baie des Chaleurs, a peculiarly well marked and almost landlocked indentation of the Canadian coast, the ten mile line would be drawn from points in the heart of Canadian territory, and almost seventy miles distant from the natural entrance or mouth of the bay. This would be done in spite of the fact that, both by Imperial legislation and by judicial interpretation, this bay has been declared to form a part of the Territory of Canada. See Imperial Stat., 14 and 15 Vic., Cap. 63. and *Mowat vs. McPhee*, 5 Sup. Court of Canada Reports, p. 66.

The Convention with France in 1839 and similar conventions with other European powers, although cited by Mr. Bayard as sufficient precedents for the adoption of a ten-mile limit, do not, the Minister submits, carry out his reasoning.

Those conventions were doubtless framed with a view to the geographical peculiarities of the coasts to which they related. They had for their object the definition of boundary lines, which, owing to the configuration of the coast, perhaps could not readily be settled by reference to the law of nations and involve other conditions which are inapplicable to the territorial waters of Canada.

Mr. Bayard contends that the rule which he asks to have set up was adopted by the Umpire of the Commission appointed under the Treaty of 1854, in the case of the United States' fishing schooner "Washington," that it was by him applied to the Bay of Fundy and that it is for this reason applicable to other Canadian bays.

The Minister submits, however, that the rule laid down by Mr. Bates with regard to the Bay of Fundy should not be treated as establishing the respective rights of Canada and of the United States as to bays and harbours not included in the terms of the reference, and in relation to which there was no agreement to abide by the decision of the Umpire and no decision by him.

It may reasonably be contended that as one of the headlands of the Bay of Fundy is in the territory of the United States any rules of international law applicable to that bay are not therefore equally applicable to other bays, the headlands of which are both within the territory of the same power.

As to the second paragraph of the first article the Minister suggests that before such an article is acceded to, and even if the objections before stated should be removed, the article should be so amended as to incorporate the exact language of the Convention of 1818, in which case several alterations should be made. Thus the words "and for no other purpose whatever" should be inserted after the mention of the purposes for which vessels may enter Canadian waters, and after the words "as may be necessary to prevent" should be inserted "their taking drying or curing fish therein, or in any other manner abusing the privileges reserved &c."

To make the language conform correctly to the Convention of 1818, several other verbal alterations which need not be enumerated here, would be necessary in order to prevent imaginary distinctions being drawn hereafter between the Convention of 1818 and any agreement of later date which may be arrived at.

The Minister moreover suggests that inasmuch as Mr. Bayard has from time to time denied the force and authority of the Customs, Harbour Shipping and Police laws of Canada, it may be well in order to remove the possibility of misunderstanding on the part of his Government, to insert a proviso expressly recognizing the validity of such enactments.

The proviso in Article I, in which it is stipulated that any arrangement which may be arrived at by the Commission shall not go into effect until it has been confirmed by Great Britain, and the United States should provide for confirmation by the Parliament of Canada.

2. The Minister submits that Article II of the proposed arrangement, is, in his opinion, entirely inadmissible. It would suspend the operations of the Statutes of Great Britain and Canada, and of the Provinces now constituting Canada, not only as to the various offences connected with fishing, but as to Customs, harbours and shipping, and would give to the fishing vessels of the United States privileges in Canadian ports, which are not enjoyed by vessels of any other class, or of any other nation; such vessels would for example, be free from the duty of reporting at the Customs on entering a Canadian harbour, and no safeguard could be adopted to prevent infraction of the Custom laws by any vessel asserting the character of a fishing vessel of the United States.

Instead of allowing to such vessels merely the restricted privileges reserved by the Convention of 1818, it would give them greater privileges than are enjoyed at the present time by any vessels in any part of the world.

It must, moreover, be borne in mind that should no "definitive arrangement," such as is looked forward to in the proposal, be arrived at, these extraordinary concessions, although applied for pending such a definitive arrangement, might remain in operation for an indefinite period, and that the Article would be taken for all time to come as indicating the true interpretation of the Convention of 1818, although the interpretation placed upon that Convention by the Article is as a matter of fact diametrically opposed to the construction which has heretofore been insisted upon by successive Canadian Governments.

The Minister further considers it his duty to point out that the Article is beyond the powers of the Imperial Government, which cannot thus suspend or repeal Canadian laws.

3. As to Article III the Minister submits that it is entirely inadmissible. It proposes that Her Majesty's Courts in Canada shall, without any show of reason, be deprived of their jurisdiction, and would vest that jurisdiction in a tribunal not bound by legal principles, but clothed with supreme authority to decide on most important rights of the Canadian people.

It would be a disagreeable novelty to the people of Her Majesty's Canadian Dominions to find that any of their rights or the rights of their country as a whole, were to be submitted to the adjudication of two naval officers, one of them belonging to a foreign country, who, if they should disagree and be unable to choose, an umpire must refer the final decision of the great interests which might be at stake, to some person chosen by lot.

If a vessel charged with infraction of our fishing rights should, by this extraordinary tribunal, be thought worthy of being subjected to a "Judicial examination" she would be sent to the Vice-Admiralty Court at Halifax, but there would be no redress, no appeal and no reference to any tribunal if the naval officers should think proper to release her.

4. Article IV is also open to grave objection. It proposes to give the United States' fishing vessels the same commercial privileges as those to which other vessels of the United States are entitled, although such privileges are expressly renounced by the Treaty of 1818, on behalf of fishing vessels, which were thereafter to be denied the right of access to Canadian waters except for shelter, repairs and the purchase of wood and water. It has already been pointed out, in previous reports on this subject, that an attempt was made, during the negotiations which preceded the Convention of 1818, to obtain for the fishermen of the United States the right of obtaining bait in Canadian waters, and that this attempt was successfully resisted. Your Excellency will observe that, in spite of this fact, it is proposed, under the article now referred to, to declare that the Convention of 1818 gave that privilege, as well as the privileges of purchasing other supplies, in the harbours of the Dominion.

5. To this novel and unjustified interpretation of the convention Mr. Bayard proposes to give retrospective effect by the next article of the proposal, in which it is assumed, without discussion, that all the United States' fishing vessels which have been seized since the expiration of the Treaty of Washington have been illegally seized, leaving as the only question still open for consideration, the amount of the damages for which the Canadian authorities are liable.

The Minister submits that the serious consideration of such a proposal would imply a disregard of justice as well as of the interests of Canada, and he is unwilling to believe that it will be entertained, either by Your Excellency's advisers, or by the Imperial Government.

From the above enumeration of some of the principal objections to which the proposals contained in Mr. Bayard's memorandum are open, it will be evident to Your Excellency that those proposals as a whole will not be acceptable to the Government of Canada. The conditions which Mr. Bayard has sought to attach to the appointment of a mixed commission involve in every case the assumption that upon the most important points in the controversy which has arisen in regard to the fisheries on the eastern coast of British North America, Canada has been in the wrong and the United States in the right. The reports which have already been submitted to Your Excellency and communicated to Her Majesty's Government upon this subject have been sufficient to show that the position which has been taken up by the Canadian Government is one perfectly justifiable, with reference to the rights expressly reserved to British subjects by treaty, and that the legislation, by which it has been, and is now being sought to enforce those rights, is entirely in accordance with treaty stipulations, and is within the competence of the Colonial Legislature.

It is not to be expected that after having earnestly insisted upon the necessity of a strict maintenance of these treaty rights, and upon the respect due by foreign vessels, while in Canadian waters, to the municipal legislation by which all vessels resorting to those waters are governed, in the absence moreover of any decision of a legal tribunal, to show that there has been any straining of the law in those cases in which it has been put in operation, the Canadian Government will suddenly and without the justification supplied by any new

facts or arguments withdraw from a position taken up deliberately, and by doing so, in effect, plead guilty to the whole of the charges of oppression, inhumanity, and bad faith which, in language wholly unwarranted by the circumstances of the case, have been made against it by the public men of the United States.

Such a surrender on the part of Canada would involve the abandonment of a valuable portion of the national inheritance of the Canadian people, who would certainly visit with just reprobation those who were guilty of so serious a neglect of the trust committed to their charge.

The Minister, while, however, objecting thus strongly to the proposal as it now stands, considers that the fact of such a proposal having been made may be regarded as affording an opportunity which has, up to the present time, not been offered for an amicable comparison of the views entertained by Your Excellency's Government and that of the United States, and he desires to point out that Mr. Bayard's proposal, though quite inadmissible, in so far as the conditions attached to it are concerned, appears to be, in itself, one which deserves respectful examination by Your Excellency's advisers. The main principle of that proposal is that a mixed Commission should be appointed for the purpose of determining the limits of those territorial waters within which, subject to the stipulations of the Treaty of 1818, the exclusive right of fishing belongs to Great Britain.

The Minister cordially agrees with Mr. Bayard in believing that a determination of those limits would, whatever might be the future commercial relations between Canada and the United States, either in respect to the fishing industry, or in regard to the interchange of other commodities, be extremely desirable, and he believes that Your Excellency's Government will be found ready to co-operate with that of the United States in effecting such a settlement.

Holding this view the Minister is of opinion that Mr. Bayard was justified in reverting to the precedent afforded by the negotiations which took place upon this subject between Great Britain and the United States after the expiration of the Reciprocity Treaty of 1854, and he concurs with him in believing that the memorandum communicated by Mr. Adams in 1866 to the Earl of Clarendon affords a valuable indication of the lines upon which a negotiation directed to the same points might now be allowed to proceed.

The Minister has already referred to some of the criticisms which were taken at the time by Lord Clarendon to the terms of the memorandum. Mr. Bayard has himself pointed out that its concluding paragraph, to which Lord Clarendon emphatically objected, is not contained in the memorandum now forwarded by him. Mr. Bayard, appears, however, while taking credit for this omission, to have lost sight of the fact that the remaining articles of the draft memorandum contain stipulations not less open to objection and calculated to affect even more disadvantageously the permanent interests of the Dominion in the fisheries adjacent to its coasts.

The Minister submits that in his opinion, there can be no objection on the part of the Canadian Government to the appointment of a mixed commission, whose duty it would be to consider and report on the matters referred to in the first three articles of the memorandum communicated to the Earl of Clarendon by Mr. Adams, in 1866.

Should a commission instructed to deal with these subjects be appointed at an early date, the Minister is not without hope that the result of its investigations might be reported to the Governments affected without much loss of time. Pending the determination of the questions which it would discuss, it will, in the opinion of the Minister, be indispensable that United States fishing vessels entering Canadian bays and harbours should govern themselves not only according to the terms of the Convention of 1818, but by the regulations to which they in common with other vessels are subject while within such waters.

The Minister has, however, no doubt that every effort will be made to enforce those regulations in such a manner as to cause the smallest amount of inconvenience to fishing vessels entering Canadian ports under stress of weather or for any other legitimate purpose, and he believes that any representation upon this subject will receive the attentive consideration of Your Excellency's Government.

The Minister in conclusion would remind Your Excellency that Your Government has always been willing to remove any obstacles to the most friendly relations between the people of Canada and the United States.

Your Government has not only been disposed from the first to arrive as such an arrangement as that indicated in the report, with regard to the fisheries, but likewise to enter into such other arrangements as might extend the commercial relations existing between the two countries.

The Committee concur in the foregoing and they submit the same for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
Clerk, Privy Council.

No. 179.

*Lord Lansdowne to Sir L. West.*

[No. 13.]

MONTREAL, 16th February, 1887.

SIR,—I have the honour to acknowledge the receipt on the 14th inst., of your despatch No. 2 of the 15th January last, enclosing copies of the reply of the Secretary of the Treasury to a resolution passed by the House of Representatives calling for an interpretation of the tariff law respecting the duties on fish.

As appears from the covering envelope herewith enclosed which bears the frank of Sir R. G. W. Herbert, the despatch must have gone to London in error.

I have, &amp;c.,

(Sd.)

LANSDOWNE.

The Honourable,  
SIR L. S. WEST, K.C.M.G.  
&c., &c., &c.

No. 180.

*Sir Henry Holland to Lord Lansdowne.*

[No. 38.]

DOWNING STREET, 18th February, 1887.

SIR,—I have the honour to transmit to you, for communication to your Government, a copy of a despatch received through the Foreign Office from Her Majesty's Minister at Washington, enclosing copies of a Bill, and report thereon, introduced into the House of Representatives for the appointment of a Commission to investigate losses and injuries inflicted on United States citizens engaged in North American Fisheries.

Enclosures  
Nos. 1 and 2  
of No. 174.

I have, &amp;c.,

(Sd.)

H. T. HOLLAND.

Governor General,  
The Most Honourable,  
THE MARQUIS OF LANSDOWNE, G.C.M.G.  
&c., &c., &c.

[Enclosure No. 1.]

*Sir L. West to the Earl of Salisbury.*

[Treaty No. 9.]

WASHINGTON, January 21, 1887.

MY LORD,—With reference to my despatch No. 111, of this series of the 18th ult., I have the honour to enclose to Your Lordship herewith copies of the Bill and report thereon for the appointment of a commission to investigate losses and injuries inflicted on United States' citizens engaged in the North American fisheries.

I have, &amp;c.,

(Sd.) L. S. S. WEST.

The MARQUIS OF SALISBURY,  
&c., &c., &c.

No. 181.

*Sir Henry Holland to Lord Lansdowne.*

[No. 42.]

DOWNING STREET, 23rd February, 1887.

MY LORD,—I have the honour to transmit to Your Lordship, for communication to your Government a copy of a letter from the Foreign Office, with its enclosures, respecting the case of the United States' Schooner "Sarah H. Prior;" and I am to request that I may be favoured with a report upon the alleged conduct of the captain of the Canadian revenue cutter "Critic" on the occasion referred to.

I have, &amp;c.,

(Sd.) H. T. HOLLAND.

Governor-General,  
The Most Honourable  
The MARQUIS OF LANSDOWNE, G.C.M.G.  
&c., &c., &c.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 17th February, 1887.

SIR,—I am directed by the Marquis of Salisbury to transmit to you to be laid before Sir Henry Holland, a copy of a despatch from Her Majesty's Minister at Washington, enclosing a copy of a note from the United States' Secretary of State requesting that an investigation may be made into the case of the United States' schooner "Sarah H. Prior," and I am to request that a report may be obtained from the Dominion Government on the subject.

I am, &amp;c.,

(Sd.) J. PAUNCEFOTE.

THE UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

*Sir L. S. West to Marquis of Salisbury.*

[Treaty No. 21.]

WASHINGTON, 28th January, 1886.

MY LORD,—I have the honour to enclose to Your Lordship herewith, copy of a note which I have received from the Secretary of State, as well as copy of an affidavit which accompanied it, asking for an investigation into the case of the American schooner "Sarah H. Prior" as therein set forth.

I am, &amp;c.,

(Sd.) L. S. S. WEST.

The MARQUIS OF SALISBURY,  
&c., &c., &c.

[Enclosure No. 3.]

*Mr. Bayard to Sir L. S. West*

WASHINGTON, 27th January, 1887.

SIR,—I have the honor to enclose the copy of an affidavit of the captain and two members of the crew of the schooner "Sarah H. Prior," of Boston, stating the refusal of the Captain of the Canadian Revenue cutter "Critic," to permit the restoration to the former vessel, in the port of Malpeque, P.E.I., of her large seine, which she had lost at sea, and which had been found by the Captain of a Canadian vessel who offered to return the seine to the "Prior" but was prevented from doing so by the Captain of the "Critic."

This act of prevention, the reason for which is not disclosed, practically disabled the "Prior," and she was compelled to return home without having completed her voyage, and in debt.

I have the honour to ask that Her Majesty's Government cause investigation of this cause to be made.

I have, &amp;c.,

(Sd.) T. F. BAYARD.

The Honourable  
SIR L. S. S. WEST.

[Enclosure No. 4.]

(Affidavit.)

On this 28th day of December, A.D. 1886, personally appeared before me Captain Thos. McLaughlin, Master, and George F. Little and Charles Finnegan, two of the crew of the "Sarah H. Prior," of Boston, and being duly sworn, signed and made oath to the following statement of facts :—

On 10th September, 1886, the schooner "Sarah H. Prior," while running for Malpeque, P.E.I., and about seven miles from that port, lost her large seine. Four days afterwards the schooner "John Ingalls," of Halifax, N.S., Captain Wolfe, came into Malpeque and had the seine on board which she had picked up at sea. Captain Wolfe offered to deliver the seine to Captain McLaughlin in consideration of \$25., which offer was accepted, and paid him the money. The Canadian Revenue Cutter "Critic," Captain McLaren, was laying at Melpeque at the time, and Captain McLaughlin went to see him so as to ascertain if there would be any trouble in delivering the seine. Captain McLaren would not allow the Captain of the "John Ingalls" to give up the seine, so the latter returned the \$25 to Captain McLaughlin.

The schooner "Sarah H. Prior" had two seines, one large and one small. It was the large one which she lost and the schooner "John Ingalls" picked up. She had to leave Malpeque without it and consequently came home with a broken voyage and in debt.

(Sd.) THOMAS McLAUGHLIN,  
GEO. F. LITTLE,  
CHAS. FINNEGAN.

SUFFOLK, SS., Boston, 28th December, 1886.

Personally appeared before me Thos. McLaughlin, Geo. F. Little and Charles Finnegan, who signed and made oath that the foregoing statement was true.

(Sd.) CHAS. H. HALLSHAM,  
Notary Public.

HONORABLE F. BAYARD,  
Secretary of State.

No. 182.

*The Colonial Office to Lord Lansdowne.*

DOWNING STREET, 24th February, 1887.

SIR,—I am directed by the Secretary of State for the Colonies to inform you that the undermentioned Parliamentary Papers have been sent to you by Book Post.

Title of Paper.	No. of Copies.
Correspondence relating to the Fisheries Question.	

I have, &amp;c.,

(Sd.) ROBERT G. W. HERBERT.

THE OFFICER ADMINISTERING  
the Government of Canada.

(Telegram.)

No. 183.

*Secretary of State to Governor General.*

24th February, 1887.

Your despatch of 1st February has been considered carefully by Her Majesty's Government, who will communicate with that of the United States in general concurrence with the views laid down by your Ministers respecting the proposal for a mixed Commission made by Mr. Bayard. I will address you further, however, regarding one or two points.

Her Majesty's Government, while endeavouring to procure this *ad interim* arrangement, feel it right to intimate to you that they are disposed to think, after much consideration of the entire subject, that the best and simplest settlement of the present difficulties might be arrived at if both parties would agree so as to permit the discussion of the more extended commercial arrangements—to revive, for a term at least, if not permanently, the condition of things which existed under the Treaty of Washington, fish and fish productions being again reciprocally admitted duty free, and the fishery being once more reciprocally thrown open.

They are, however, of opinion that it would be the clear interest of the Dominion that no suggestion of a pecuniary indemnification should be made in proffering this arrangement.

(Sd) SECRETARY OF STATE.

No. 184.

(Telegram.)

*Lord Lansdowne to Secretary of State.*

26th February, 1887.

Referring to your telegram of the 24th February, Canadian Government is prepared to accept your suggestion of reverting temporarily to condition of things existing under the Treaty of Washington without at present raising question of indemnity.

(Signed,) LANSDOWNE.

No. 185.

[No. 46]

*Colonial Office to Governor General*

DOWNING STREET, 26th February, 1887.

MY LORD,—I am directed by the Secretary of State to transmit to you for the information of your Government the documents specified in the annexed Schedule.

I have, &amp;c.,

(Sd.) ROBT. G. W. HERBERT.

THE OFFICER ADMINISTERING  
the Government of Canada.

Date.	Description of Document.
	Copies of two letters with their enclosures from the Foreign Office respecting the Fisheries question.

[Enclosure No. 1.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 17th February, 1887.

SIR,—I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Sir H. Holland, a copy of a despatch from Her Majesty's Minister at Washington, enclosing an article from the New York "Evening Post," setting forth the motives of the Republican party in bringing in the so-called Anti-Canadian Bill.

I am, &amp;c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

[Enclosure No. 2.]

[TREATY No. 22.]

*Sir L. West to the Marquis of Salisbury.*

WASHINGTON, 28th January, 1887.

MY LORD,—I have the honour to enclose to Your Lordship herewith an article from the New York "Evening Post," setting forth the motives of the Republican Party in bringing in the so-called anti-Canadian Bill.

I have, &amp;c.,

(Sd.) L. S. S. WEST.

The MARQUIS OF SALISBURY.  
&c., &c., &c.

[Enclosure No. 3.]

EXTRACT from the New York "Evening Post" of 27th January, 1887.

## THE ANTI-CANADIAN BILL.

The unanimity with which the Senate Fishery Bill was passed and the indifference with which it has been received by the country betoken anything rather than war. There is perhaps some party politics behind the curtain. The Democrats must not allow the Republicans to pose as the sole defenders of the country's honour against foreign aggression. Without reference to the merits of the Bill, they must forestall any imputation of want of patriotism. This can be easily managed because the execution of it is in the hands of a Democratic Administration. The Bill provides that the President may suspend commercial intercourse with Canada, more or less, whenever our fishing rights, under the Treaty of 1818, have been wantonly infringed. This is a grant of power to the President of a very extraordinary kind, no less, in fact, than the power to ruin thousands of American merchants. No such power would have been granted by the Republicans without a political end in view. This end obviously is to catch the President and his party on one or the other horn of a dilemma. If he does not exercise the power conferred upon him, it will be said that he has come short of a patriotic duty. If he does exercise it, more or less suffering will ensue on our own side of the border, and for this he will be held responsible.

The responsibility for suspending trade relations ought never to be surrendered by the legislative power. At the time when Napoleon Bonaparte was issuing his Berlin and Milan decrees, and the British Ministry their Orders in Council, the Congress of the United States passed the Embargo and Non-Intercourse Acts, decreeing in fixed terms the suspension of commerce with the offending Powers, and giving the President power merely to relax the operations of the Acts when one or the other of the offenders should desist from the injustice complained of. The Embargo and Non-Intercourse Acts were total failures in practice. Yet Congress preserved its dignity and its prerogatives by keeping within its own hands the power to close the ports of the United States, giving to the President the discretion merely to open them in certain specified contingencies. In the present case the power of closing and opening is surrendered to the President in a spirit of gush which is open to strong suspicion. When Senator Frye utters such fulsome praise of the President as is found in the recent Senate debate, it is well to enquire what it signifies. In our judgment it means that Mr. Frye wants him to make a liberal use of the dangerous power conferred upon him. It may do his Administration some harm. It can do him no good unless the provocation offered by the Canadians is more extreme than anything yet offered, for, if a justifiable case for non-intercourse exists now, it is the bounden duty of Congress to declare and enforce it, and not leave it to the discretion of the Executive. The bill itself is an expression of doubt whether any such case now exists. The report which accompanies the Bill is still more so.

Since the settlement of the *Alabama* dispute there has been nothing to feed the old animosities against Great Britain springing out of the two wars with the Mother Country except the Irish grievance, and this has been much mollified by the creation of a strong Irish party in England under the lead of Mr. Gladstone. Accordingly there is no echo to the ranting speech of Senator Ingalls. It has no true ring because it strikes no chord in the hearts of the people. Mr. Ingalls is playing upon a cracked instrument. The effects produced upon the hearers are those of flatulence and discord. The Canadians themselves are not highly interested in the performance. They appear to regard it as a breach of good

manners rather than as a token of danger. Non-intercourse with the United States is no more to them than it is to us. If New England can stand it, they can. There will be a certain amount of loss on both sides and no corresponding gain. For this reason we apprehend that the President will require a very clear and indisputable case before he exercises the power conferred upon him, and such a case there is little likelihood the Dominion authorities will give him.

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[Enclosure No. 4.]

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 17th February, 1887.

SIR, — I am directed by the Secretary of State for Foreign Affairs to transmit to you to be laid before Sir Henry Holland, copy of a despatch from Her Majesty's Minister at Washington enclosing further articles from the New York press on the fisheries question lately debated in the Senate.

I am, &c.,

(Sd.) J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,  
Colonial Office.

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[Enclosure No. 5.]

*Sir L. West to Marquis of Salisbury.*

[Treaty No. 18.]

WASHINGTON, 27th January, 1887.

MY LORD, — I have the honour to enclose to Your Lordship herewith further articles from the New York press on the fisheries question lately debated in the Senate.

I have, &c.,

(Sd.) L. S. S. WEST,

The MARQUIS OF SALISBURY.

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[Enclosure No. 6.]

*EXTRACT from the "New York Evening Post" of 26th January, 1887.*

Senator Ingalls has succeeded in getting himself noticed by the English press as well as by the "deestrick" at home, and on the whole has not done much harm. The Canadians are apparently very little terrified by him. Inhabiting a country very near to the scene of Senatorial strife, and accustomed to such rumpuses on both sides of the border, they are as unconcerned by them as we are. How little is to be apprehended may be inferred from the fact that although the London press was more or less agitated on Tuesday by Mr. Ingall's stormy deliverance, the American press preserved the profoundest calm throughout.

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[Enclosure No. 7.]

*EXTRACT from the New York "Tribune," 27th January, 1887.*

RETALIATION IN EARNEST.

The duty of the House respecting the Fisheries outrages is plain and imperative. Its own Committee on Foreign Affairs has reported a Retaliation Act of wider scope than the Senate Bill. There is no real necessity for the passage of so extreme a measure. Mr. George Steele, the indefatigable president of the American Fishing Union, has publicly stated that the Senate Bill covers the ground completely, and that the Belmont Bill goes too far, in prohibiting commercial intercourse with Canada altogether. We are disposed to abide by his

judgment, and to consider the Senate measure as the more expedient of the two schemes. Retaliation, so far as may be practicable, should be strictly in kind : Canadian fishermen and their produce should be dealt with in the same spirit in which American fishermen and their produce are dealt with in Canadian ports ; and the extreme policy of non-intercourse should be held in reserve for another year. If the House will accept the Senate Bill as a substitute for its own measure, and send it to the President with the unbroken support of both parties, the responsibility for protecting the rights of American fishermen will be clearly defined.

The United States' Senate deserves the thanks of every patriotic American. The decisive vote by which the Administration's timorous arbitration proposals were condemned at the last Session has been followed this week by the passage of the Fisheries Retaliation Bill by a vote practically unanimous. Party distinctions were dropped. The Senate rose to a high level of patriotism in defence of National honor. The series of unneighbourly, brutal and illegal outrages upon American commerce in Dominion waters has been resented with becoming vigour and dignity. The Senate, with only one dissenting vote—and that vote cast under a fantastic interpretation of the measure—has armed the President with full, adequate and just powers of retaliation. At his discretion United States' ports can be closed against Canadian vessels, fresh or salt fish or any of the products of the Dominion can be seized in American territory, ships and goods can be forfeited, and persons implicated in the violation of this law can be fined and imprisoned. This policy will be heartily supported by public opinion in the United States.

Senator Ingalls' incisive questions, in regard to the real purpose of the Senate Bill, were well-timed, and served to bring out invigorating exhibitions of American feeling. It was unnecessary, however, to ask whether the Bill was intended as a pacific or as a hostile measure. On its face it is a measure of retaliation, pure and simple. If the warning be unheeded by the Dominion Government, it may become necessary, another year, to have recourse to more extreme retaliatory legislation. Such measures are defensive in character. It is a serious mistake to consider them in the light of war measures. The real war measures are the wanton outrages which have involved the necessity for retaliation ; and the effect of a vigorous defensive policy on the American side will be markedly pacific, since it will tend to prevent the recurrence of hostile acts. That this will be the result of the passage of the Senate Bill by the House we have very little doubt. Already the Canadian Government is showing works meet for repentance. Three days after the introduction of retaliatory measures in Congress, Consul General Phelan received from the Canadian authorities a check for \$400, the restored fine on the schooner "*Marion Grimes*," the flag of which was hauled down by order of the swaggering commander of the "*Terror*." Another schooner was released on Monday. Illegal seizures and brutal outrages will cease when the Ottawa officials perceive that the British Minister is no longer the confidential adviser of Secretary Bayard, that the Administration has renounced its flabby policy of inaction, and that the American people are determined not to have the National honour compromised.

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[Enclosure No. 8.]

EXTRACT from the "*New York World*" of 27th January, 1887.

A LESSON FOR CANADA.

The Canadians have never displayed wisdom in their action on the fishery question. Dependent in a measure on the trade of the United States for their prosperity, they have constantly pursued a policy of bluster against her powerful neighbour instead of a policy of conciliation. Their object has been to force a misnamed "reciprocity," with the advantages largely on their side, instead of such a fair and equitable Commercial Treaty between the two countries as would advance the interests of both and create those friendly feelings which would be the best guarantee of an honest observance of the obligations on both sides.

Some time ago the Canadian Parliament enacted a law which authorized the seizure of American vessels in violation of what we consider our rights under the Treaty of 1818. The Governor General of the Dominion felt so much doubt about the propriety and expediency of the Act that he withheld his signature and referred it to the Home Government. Before the new law was made complete by the Royal approval, American vessels were seized under its provisions without a shadow of legality. Subsequently the Act received the Queen's approval.

This is certainly provocation enough to prompt some decisive movement on the part of the Government of the United States, either through the President or Congress. The

Administration has done nothing but "protest," while in the face of its expostulations the objectionable law received the Royal assent. Congress now acts through the law which authorizes the President to retaliate for Canadian injustice to our fishing vessels by closing American ports to Canada's trade.

There is nothing of bullying and bluster about this course. It is a measure entirely justifiable and one which Canada can control. If American vessels are fairly dealt with and Treaty obligations are faithfully observed the law will be inoperative. If American rights are violated, retaliation is just and proper and entirely within the practice of nations.

Nobody wants war with Great Britain, nor will there be any war. The rant of politicians in search of cheap popularity amounts to nothing. But Canada must be taught that if she desires to remain on good terms with her neighbour she must act with courtesy and fairness. If she neglects the lesson it will be at the cost of the interests of her own people.

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No. 186.

*Sir H. Holland to the Marquis of Lansdowne.*

[No. 49.]

DOWNING STREET, 1st March, 1887.

MY LORD,—I have the honour to transmit to you, for any observations which your Ministers may wish to offer upon the subject, a copy of a despatch received through the Foreign Office from Her Majesty's Minister at Washington with a paper containing certain questions respecting the fisheries put by the Secretary of the Treasury to Professor Baird, of the Fish Commission, as well as the answers returned thereto.

I have, &c.,

(Sd.) H. HOLLAND.

Governor General

The Most Honourable

THE MARQUIS OF LANSDOWNE, G.C.M.G.,  
&c., &c., &c.

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[Enclosure No. 1.]

*Sir L. West to the Marquis of Salisbury.*

(Treaty No. 25.)

WASHINGTON, 5th February, 1887.

MY LORD,—I have the honour to enclose to Your Lordship herewith a paper containing certain questions respecting the fisheries put by the Secretary of the Treasury to Professor Baird, of the Fish Commission, as well as the answers returned thereto.

I have, &c.,

(Sd.) L. S. WEST.

THE MARQUIS OF SALISBURY,  
&c., &c., &c.

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[Enclosure No. 2]

Questions put to Professor Baird by the Secretary of the Treasury on the fisheries, and answers returned thereto:—

1. What are the descriptions of fish which the American fishermen desire to take either in the jurisdictional waters of British North America, or in the open sea, or upon bays near the British colonial possessions? *Answer.* Mackerel is the only species of any importance

which the American fishermen desire to take within the three-mile limit ; but at present the advantage to be derived from any privilege of fishing within the three-mile limit is comparatively insignificant.

2. In the method of fishing in the open sea, of what importance is the right to enter in a commercial way British colonial ports in the neighbourhood ? *Answer.* Only to purchase either salt barrels or ice. The privilege, however, of landing cargoes of fish at provincial ports for shipment to the United States is of considerable importance to vessels engaged in the mackerel fishery, and with it should be coupled the privilege of refitting.

Some of the Gloucester owners of vessels are opposed to going to and from provincial ports on account of the loss of time thereby incurred, but as a considerable percentage of the men employed have families in the Provinces, they urge upon the owners the necessity of obtaining bait in these localities.

3. The same question in regard to the fishing on the permitted coasts and the commercial entry in the prohibited bays and harbours, but not for fishing ? *Answer.* There is at present comparatively little fishing by American vessels on that portion of the coast to which free access is given by the Treaty of 1818, but vessels fishing in that vicinity should have the same privileges in other ports as are accorded to other vessels, as it would seem unwise to discriminate, and it would, perhaps, owing to the few settlements of any importance on the permitted coast be more convenient for the vessels to enter ports in the prohibited districts to purchase the necessary articles than to go out of their way in an opposite direction where there might be any uncertainty of securing them.

4. What is your estimate of the total tonnage of American vessels and the number of fishermen therein engaged in the Canadian and North Atlantic fisheries in 1886, and the total value of their catch ? *Answer.* 1,956 vessels, aggregating 115,130 tons, with crew numbering 17,996 men. The fleet is estimated to have been divided as follows :—

1,530 vessels in the food fish fishery.

215 in the shell fish and lobster fishery.

177 in the capture of whales and seals.

34 in the menhaden fishing.

5. What change has, in your view, come to American fisheries since the last full year of the Washington Treaty, in regard to the quantity, character, and general features of that industry ? *Answer.* During the year mackerel has been peculiarly scarce. The limited catch cannot, however, in any way be accounted for by the restrictions placed on American vessels within the three-mile limit.

6. What are the new features in the diminished necessity for the purchase of bait in British and American ports ? *Answer.* The employment of the gill net, obtained from Norway for catching cod fish which renders bait no longer necessary.

7. Have you ascertained new facts of public interest in regard to the decreasing importance to American fishermen of the inshore Canadian fisheries ? *Answer.* The decreased importance is due to :—

(1) The increased size of American vessels, which did away with the necessity of fishing close to land where harbours could be made in case of storms and of landing to dry their fish.

(2) The substitution of the purse seine for hand lines in the capture of mackerel, which has necessitated fishing in deeper water, and at a greater distance from shore.

(3) From the change in the location of the mackerel, which has for the last few years enabled American vessels to obtain full cargoes in the vicinity of the American coasts, instead of going to the Gulf of St. Lawrence, where they formerly met with better success, but where of late years, prior to the present season they have found fishing unsatisfactory.

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No. 187.

*Lord Lansdowne to Sir Henry Holland.*

[No. 67.]

OTTAWA, 9th March, 1887.

SIR,—In consequence of the repeated complaints which have been addressed to Her Majesty's Government, by that of the United States, of the manner in which the Canadian authorities have acted in enforcing against American fishing vessels the provisions of the Convention of 1818 and the Acts of Parliament passed for the purpose

of giving effect to that Treaty, I have thought it my duty to invite the special attention of my advisers to the action of the Dominion fisheries police during the last fishing season, and to ask them to consider, upon a general review of the events of that season, and of the different cases in which vessels had been either denied privileges or had been seized or detained within Canadian waters for alleged infractions of the law, or otherwise interfered with by the officials of the Dominion; whether any amendment was called for in the instructions which had been issued by the Fisheries Department to the officers in its employment, or in the procedure which has been resorted to in dealing with infractions of the Fishery or Customs laws.

2. With regard to the spirit in which the Government of the Dominion desires to act in regard to these questions, I am glad to refer you again to the printed instructions issued on the 16th March, 1886, to all fishery officers in command of Government steamers and vessels engaged in the protection of the inshore fisheries of Canada. These instructions, after carefully defining the circumstances under which foreign fishing vessels may be detained, enjoin upon the officers to whom the instructions are addressed, the duty of performing the services in which they are engaged, with forbearance and discrimination.

Vide  
Enclosure  
No. 1  
of  
No. 33.

It is especially pointed out that "foreign fishing craft may be driven into Canadian waters by violent or contrary winds, by strong tides or through misadventure or some other cause independent of the will of the master and crew."

In such cases the fishery officer is desired to take these circumstances into his consideration and to "satisfy himself with regard thereto before taking the extreme step of seizing or detaining any vessels." In another passage special reference is made "to the general conciliatory spirit in which it is desirable that you should carry out these instructions, and the wish of Her Majesty's Government that the rights of exclusion should not be strained."

3. The information given to me by my Ministers affords no reason for believing that during the past season there has been any appreciable departure from the intentions of the framers of the instructions which I have quoted.

4. In almost every case in which complaints of the kind to which I have referred have been forwarded to me by your predecessors, I have been able to supply them with full information which has, I venture to think, been sufficient to show that as a rule, the complaints were founded upon *ex parte* and misleading statements and the action of the Canadian authorities entirely warranted by treaty and law. It is, indeed, I think, a matter for congratulation—considering the fact that my Government had to deal on the one hand with a body of fishermen accustomed to resort without molestation to Canadian waters and likely to resent any interference with the freedom of access which such fishermen had heretofore enjoyed, and on the other with a newly constituted police force of which the members were necessarily without experience in the novel and delicate duties entrusted to them, that no serious mistakes should have so far been committed.

5. I am, however, able to assure you that should there be any particular in respect to which Her Majesty's Government may desire to see the instructions already issued amended so as to prevent the possibility of hardships to vessels *bonâ fide* resorting to Canadian waters for any of the purposes permitted by the Convention of 1818, my Government will take into its favourable consideration the suggestions which you may be disposed to make with this object.

6. In this connection, however, I may point out that in the despatches which have been addressed to Her Majesty's Government by Mr. Bayard, as well as in the reports presented to Congress, with a view to justify legislation upon these subjects, objection has been taken not only to the interpretation which Canadian authorities have placed upon the law which they were called upon to administer, but apparently to the allowance of any discretion whatever to Canadian officials in dealing with acts of trespass committed by American vessels in Canadian waters. Of this a conspicuous

illustration is afforded by the language used in the report recently presented to Congress by Mr. Edmunds, from the Committee on Foreign Relations, which contains the following passage:—

“On the 12th May, 1870, the Dominion Act, 33 Vic., chap. 15, was passed, repealing the third section of the last-mentioned Act on the subject of bringing vessels into port, &c., and provided, in lieu thereof, that any of the officers or persons before mentioned might bring any vessel being within any harbour in Canada, or hovering in British waters, within three miles of the coast into port, search her cargo, examine her master on oath, &c., without any previous notice to depart, which had been required by the former Act. So that an American vessel fishing at sea, being driven by stress of weather, want of wood or water, or need of repairing damages, which should run into a Canadian harbour, under the right reserved to it by the Treaty of 1818, the moment her anchor was dropped or she was within the shelter of a headland was, at the discretion of the Canadian official, to be immediately seized and carried into port, which might be, and often would be, many miles from the place where she could have her safe shelter or could obtain her wood and water or repair her damages.

“The Committee thinks it is not too much to say that such a provision is in view of the Treaty and of the common principles of comity among nations, grossly in violation of rights secured by the Treaty and of that friendly conduct of good neighbourhood, that should exist between civilized nations holding relations such as ought to exist between the United States and Her Majesty's Dominions.” \* \* \* \*

“From all this it would seem that it is the deliberate purpose of the British Government to leave it to the individual discretion of each one of the numerous subordinate magistrates, fishery officers, and Custom officers of the Dominion of Canada to seize and to bring into port any American vessels, whether fishing or other, that he finds within any harbour in Canada, or hovering within Canadian waters,”

7. It is, I venture to submit, impossible to contrive any system for enforcing regulations for the protection of the Canadian Fisheries, or for the prevention of smuggling along the Canadian coast, no matter how liberal the spirit in which those regulations might be conceived, under which the initiative to be taken in each case should not be left to “the individual discretion” of Canadian officials. If no such discretion is allowed to these, if every intruding vessel is to be free after committing an act of trespass to depart without hindrance from the place in which that act was committed, subject merely to the chance of her being made liable for subsequent legal proceedings, the protection which it was intended to afford to the interests of the Dominion would become illusory and valueless.

8. The same argument applies to the enforcement against the American fishing vessels of the Canadian Customs law. The acts of vessels which have been proceeded against under this law are constantly represented, as for instance on page 10 of the report already quoted to be “merely formal or technical violations of some Canadian Customs Statute or Regulation.” The Statute which has been enforced in these cases is, as I have more than once had occasion to point out, one which is consistently put into operation against all vessels resorting to Canadian waters nor would it be possible to cease enforcing it against a particular class of vessels without giving to them opportunities for systematically, and with complete impunity, evading the law upon coasts of which the configuration is particularly favourable to the operations of smugglers.

9. For these reasons I cannot hold out the expectation that my Government will abandon the position which I have described, and which may be summed up in the statement that it cannot recognize the right of the United States' fishing vessels to resort to Canadian waters except for the purposes specified in the Convention of 1818, and that it considers that its officials should have the discretion of determining in what cases and to what extent, subject to the ultimate decision of the Courts, vessels entering those waters for a lawful purpose should comply with the requirements of the municipal law of the Dominion. With this reservation, my Government desires to afford to all foreign vessels every facility for availing themselves of the privileges to which they are entitled, and to avoid, as far as possible, attaching to the exercise of those privileges any condition of an irritating or vexatious character.

10. If you should be of opinion that any alterations are desirable in the procedure of the local authorities or in the instructions to which I have already referred, I trust that you will favour me with an expression of your views.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable

Sir HENRY HOLLAND, Bart., G.C.M.G.,  
&c., &c., &c.

No. 188.

*Lord Lansdowne to Sir H. Holland.*

[No. 74.]

OTTAWA, 11th March, 1887.

SIR,—In reference to the subject mentioned in my despatch of the 9th inst., No. 67, and as an illustration of the desire of my Government to remove obstacles in the way of United States' fishing vessels resorting to Canadian waters for purposes permitted by the Convention of 1818, I may mention that a Sub Collector of Customs will be stationed upon an island, or at Sand Point, at the mouth of Shelburne Harbour, so as to render it unnecessary for vessels entering that harbour to report to the Collector who is stationed in the Port of Shelburne, which is several miles distant from the outer harbour.

It will be in your recollection that a complaint was made in the case of the "Rattler" detained in this harbour in the month of August, 1886, that she was delayed for some time in consequence of her being taken from the spot at which she was found by the Canadian police vessel, to the Port of Shelburne.

I may also mention that the captains of police vessels have been authorized, in certain cases, in which entrance at the regular Customs port would entail serious loss of time owing to distance from the place of shelter, to act as Customs Officers for the purpose of accepting reports from United States' fishing vessels who may find it necessary to enter Canadian harbours.

The attention of the Department of Customs is specially directed to these points, and the Minister will do all in his power to enable Foreign Fishing Vessels to comply with the requirements of the Customs Laws, under conditions as little onerous as possible.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable,

Sir HENRY HOLLAND,  
&c., &c., &c.

No. 189.

*Sir L. West to Lord Lansdowne.*

[No. 31.]

WASHINGTON, 20th March, 1887.

MY LORD,—I have the honour to enclose to Your Excellency herewith copies of Treasury Circular calling the attention of officers of Customs and others to the provisions of the recent Acts of Congress relating to the importing and landing of

mackerel caught during the spawning season, and authorizing the President to protect the rights of American fishing vessels.

I have, &c.,

(Sd.) L. S. SACKVILLE WEST.

His Excellency

The MARQUIS OF LANSDOWNE, G.C.M.G.,  
&c., &c., &c.

[Enclosure No. 1.]

CIRCULAR.—THE FISHERIES.

1887. DEPARTMENT No. 32.

TREASURY DEPARTMENT, BUREAU OF NAVIGATION,  
WASHINGTON, D. C., 16th March, 1887.

*To Collectors of Customs and others:*

The attention of officers of Customs and others is invited to the provisions of the recent Acts of Congress printed below, one relating "to the importing and landing of mackerel caught during the spawning season," and the other authorizing the "President of the United States to protect the rights of American fishing vessels, American fishermen, American trading and other vessels, in certain cases," &c.

(Sd) C. B. MORTON,  
*Commissioner.*

Approved:

(Sd.) C. S. FAIRCHILD,  
*Acting Secretary.*

AN ACT RELATING TO THE IMPORTING AND LANDING OF MACKEREL CAUGHT DURING THE SPAWNING SEASON.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled.* That for the period of five years from and after the first day of March, eighteen hundred and eighty-eight, no mackerel, other than what is known as Spanish mackerel, caught between the first day of March and the first day of June, inclusive, of each year, shall be imported into the United States or landed upon its shores: *Provided, however,* That nothing in this Act shall be held to apply to mackerel caught with hook and line from boats, and landed in said boats, or in traps and weirs connected with the shore.

SEC. 2. That section forty-three hundred and twenty-one of the Revised Statute is amended, for the period of five years aforesaid, so as to read before the last sentence as follows: "This license does not grant the right to fish for mackerel, other than for what is known as Spanish mackerel, between the first day of March and the first day of June, inclusive, of this year." Or in lieu of the foregoing there shall be inserted so much of said period of time as may remain unexpired under this Act.

SEC. 3. That the penalty for violation or attempted violation of this Act shall be forfeiture of license on the part of the vessel engaged in said violation, if a vessel of this country, and the forfeiture to the United States, according to law, of the mackerel imported or landed, or sought to be imported or landed.

SEC. 4. That all laws in conflict with this law are hereby repealed.

Approved, 28th February, 1887.

AN ACT TO AUTHORIZE THE PRESIDENT OF THE UNITED STATES TO PROTECT AND DEFEND THE RIGHTS OF AMERICAN FISHING VESSELS, AMERICAN FISHERMEN, AMERICAN TRADING AND OTHER VESSELS, IN CERTAIN CASES AND FOR OTHER PURPOSES.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen visiting or being in the waters or at any

ports or places of the British dominions of North America, are, or then lately have been denied or abridged in the enjoyment of any rights secured by treaty or law, or are or then lately have [been] unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights, or otherwise unjustly vexed or harassed in said waters, ports or places; or whenever the President of the United States shall be satisfied that any such fishing vessels or fishermen, having a permit under the laws of the United States to touch and trade at any port or ports, place or places in the British dominions of North America, are or then lately have been denied the privilege of entering such port or ports, place or places in the same manner and under the same regulations as may exist therein applicable to trading vessels of the most favoured nation, or shall be unjustly vexed or harassed in respect thereof, or otherwise be unjustly vexed or harassed therein, or shall be prevented from purchasing such supplies as may there be lawfully sold to trading vessels of the most favoured nation; or whenever the President of the United States shall be satisfied that any other vessels of the United States, their masters, or crews, so arriving at or being in such British waters or ports or places of the British dominions of North America, are or then lately have been denied any of the privileges therein accorded to the vessels, their masters or crews, of the most favored nation, or unjustly vexed or harassed in respect of the same, or unjustly vexed or harassed therein by the authorities thereof, then, and in either or all of such cases, it shall be lawful, and it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny to vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports or places of, or within the United States (with such exceptions in regard to vessels in distress, stress of weather, or needing supplies, as to the President shall seem proper), whether such vessels shall have come directly from said dominions on such destined voyage, or by way of some port or place in such destined voyage elsewhere; and also, to deny entry into any port or place of the United States of fresh fish or salt fish, or any other product of said dominions, or other goods coming from said dominions to the United States. The President may, in his discretion apply such proclamation to any part or to all of the foregoing-named subjects, and may revoke, qualify, limit and renew such proclamation from time to time, as he may deem necessary to the full and just execution of the purposes of this Act. Every violation of any such proclamation, or any part thereof, is hereby declared illegal, and all vessels and goods so coming or being within the waters, ports, or places of the United States, contrary to such proclamation, shall be forfeited to the United States; and such forfeiture shall be enforced and proceeded upon in the same manner and with the same effect as in the case of vessels or goods whose importation or coming to or being in the waters or ports of the United States contrary to law may now be enforced and proceeded upon. Every person who shall violate any of the provisions of this Act, or such proclamation of the President made in pursuance hereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both said punishments, in the discretion of the court.

Approved, 3rd March, 1887.

## No. 190.

*Lord Lansdowne to Sir H. Holland.*

CANADA, GOVERNMENT HOUSE,

[No. 99.]

OTTAWA, 2nd April, 1887.

SIR,—With reference to Mr. Stanhope's despatch, No. 274, of the 16th November last, transmitting a copy of a letter from the Foreign Office, with its enclosures, respecting the alleged improper conduct of authorities in the Dominion in dealing with the United States' fishing vessels, "Laura Sayward" and "Jennie Seaverns," and requesting to be furnished with a report on these cases for communication to the United States Government, I have the honour to forward herewith a copy of an approved Minute of the Privy Council of Canada, embodying a report of my Minister of Marine and Fisheries on the subject.

I have much pleasure in calling your attention to the penultimate paragraph of that report from which you will observe that it will, in the opinion of my Government, be possible in cases like that of the "Jennie Seaverns," where a foreign fish-

ing vessel has entered a Canadian harbour for a lawful purpose, and in the pursuance of her treaty rights, to exercise the necessary supervision over the conduct of her master and crew, and to guard against infractions of the Customs law and other Statutes binding upon foreign vessels while in Canadian waters, without placing an armed guard on board, or preventing reasonable communication with the shore.

My advisers are, in regard to all such matters, fully prepared to recognize that a difference should be made between the treatment of vessels *bona fide* entering a Canadian harbour for shelter or repairs, or to obtain wood and water, and that of other vessels of the same class entering such harbors ostensibly for a lawful purpose, but really with the intention of breaking the law.

(Sgd.) LANSDOWNE.

The Right Honourable,  
Sir HENRY HOLLAND, BART., G.C.M.G.,  
&c., &c., &c.

[Enclosure No. 1.]

521.

*CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 23rd March, 1887.*

The Committee of the Privy Council have had under consideration a despatch dated 16th December, 1886, from the Right Honourable the Secretary of State for the Colonies, transmitting a copy of a letter from the Foreign Office covering copy of a despatch from Her Majesty's Minister at Washington, enclosing notes which he has received from Mr. Bayard, United States' Secretary of State, protesting against the conduct of the Dominion authorities in their dealings with the United States' fishing vessels "Laura Sayward" and "Jennie Seaverns," and requesting to be furnished with a report on the subject for communication to the Government of the United States.

The Minister of Marine and Fisheries to whom the despatch and enclosures were referred for immediate report, observes that Mr. Bayard takes exception to the "inhospitable and inhuman conduct" of the Collector of Customs at the Port of Shelburne, N.S., in refusing to allow Capt. Rose of the "Laura Sayward" to buy sufficient food to last himself and crew on their homeward voyage, and complains of the action of the Collector in "unnecessarily retaining" the papers of the vessel. Mr. Bayard bases his representations upon the annexed declaration made by Capt. Rose, but supported by no other testimony.

The Minister states that immediately on receipt of the despatch above mentioned, a copy of the charges was forwarded to the Collector at the Port of Shelburne and his statement in reply thereto is annexed.

The Minister believes that Collector Atwood's statement is a reasonable and sufficient answer to the allegations made by the Captain of the "Sayward," and leaves no ground of justification for the strong language used by Mr. Bayard in his note to Sir L. Sackville West.

The Minister further observes that with reference to the "Jennie Seaverns," Mr. Bayard complains of the conduct of Capt. Quigley, of the "Terror," in preventing the Captain of the "Jennie Seaverns" from landing to visit his relatives in Liverpool, N.S., and in forbidding his relatives to visit him on board his vessel, and in placing a guard upon the "Seaverns" while she was in port. These complaints are based upon the affidavit of Captain Tupper, of the "Seaverns," a copy of which is attached. The statements of Captain Quigley and his first officer, Bennett, are submitted in reply, and seem to afford ample proof that no violence or injustice was done to the fishing schooner.

The Minister is of the opinion that the Captain of the "Jeannie Seaverns" has nothing to complain of. He came in solely for shelter and this was not denied him. He was requested to report at the Customs, with which request he, upon his own evidence, willingly complied. The other precautions taken by Captain Quigley were simply to ensure that while shelter was being had the provisions of the convention and of the Customs law were not violated.

The Minister, however, while assured that the vessel in question suffered no deprivation of or interference with her rights as defined by the Convention of 1818, is of opinion that in pursuance of the spirit of uniform kindly interpretation of the law which it has been the con-

stant aim of the Government of Canada to exemplify in its dealings with United States' fishermen, it is possible for the officers in charge of the cruisers to efficiently guard the rights of Canadian citizens and enforce the provisions of the law without in such cases as the above finding it necessary to place an armed guard on board the fishing vessel, or preventing what may be deemed reasonable communication with the shore.

The Committee concurring in the report of the Minister of Marine and Fisheries, recommend that Your Excellency be moved to transmit a copy of this Minute to the Right Honourable, the Secretary of State for the Colonies, for the purpose of communication to the Government of the United States.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
*Clerk, Privy Council.*

[Enclosure No. 2.]

*(Affidavit of Medeo Rose.)*

I, Medeo Rose, master of the schooner "Laura Sayward," of Gloucester, being duly sworn, do depose and say that on Saturday, 2nd October, being then on Western Bank on a fishing trip, and being short of provisions we hove up our anchor and started for home.

The wind was blowing almost a gale from the north-west and being almost dead ahead we made slow progress on our voyage home. On Tuesday, 5th October, we made Shelburne, Nova Scotia, and arrived in that harbour about 8 o'clock p.m. on that day, short of provisions, water and oil to burn. On Wednesday I sailed for the inner harbour of Shelburne, arriving at the town about 4 p.m. On going ashore I found the Custom House closed, and hunted up the Collector and entered my vessel and asked permission from him to buy 7 lbs. sugar, 3 lbs. coffee,  $\frac{1}{2}$  to 1 bushels potatoes, and 2 lbs. butter, or lard, or pork and oil enough to last us home, and was refused.

I stated to him my situation, short of provisions and a voyage of 250 miles before, and plead with him for this slight privilege, but it was of no avail. I then visited the American Consul and asked his assistance and found him powerless to aid me in this matter. The Collector of Customs held my papers until the next morning, although I asked for them as soon as I found I could not buy any provisions, say about one and a-half hours after I entered, but he refused to give them to me until the next morning. Immediately on receiving my papers on Thursday morning, I started for home arriving on Sunday. I think the treatment I received harsh and cruel, driving myself and crew to sea with a scanty supply of provisions, we having but little flour and water, and liable to be buffeted for days before reaching home.

(Sd.) MEDEO ROSE.

MASS. ESSEX, SS.,  
13th October, 1886. }

Personally appeared Medeo Rose and made oath to the truth of the above statement,

Before me,

(Sd.) AARON PARSONS, N.P.

[Seal.]

[Enclosure No 3.]

*(Collector Atwood to Commissioner of Customs.)*

CUSTOM HOUSE, Shelburne, 5th January, 1887.

SIR,—With reference to the statement made by Medeo Rose, master of the schooner "Laura Sayward," I beg to say that in many particulars it is not true and is very unjust. The Custom House was not closed as stated. Office hours are supposed to be from 9 a.m. to 4 p.m., but masters of vessels, American fishermen particularly, are allowed to report their vessels, inward and outward, and obtain clearances at any hour between 6 a.m. and 11 p.m.,

(Sundays excepted), and the office is always open. On the 6th October last, I left at 4 p.m. and went to an Agricultural Exhibition not an eighth of a mile distant, say a three minutes walk, and left word at the office to tell any one who called where I could be found. I had been on the grounds about fifteen minutes when Captain Rose put in an appearance, and I at once came to the office and he reported his vessel, stated that he was from the Bank, bound home, and came in to fill water and wanted provisions as follows, viz, : 7 lbs sugar, 3 lbs. coffee, 1 bushel potatoes, and 2 lbs. butter. This was all. I took a memo. and attached to his Inward Report, and oil is not mentioned. Stated that he had plenty of flour, fish and other provisions, sufficient for voyage home.

I gave him permission to fill water at once, but as the Treaty made no provision for purchase of supplies, I would telegraph the Department at Ottawa, and no doubt it would be allowed. Captain Rose expressed his willingness to remain until a reply was received. He called at the office next morning (Thursday), at 6 30 a.m., and finding I had not received a reply, said, as the wind was fair and a good breeze, he would not wait longer, and would take a clearance, which I gave him. I told him an answer to telegram would probably be received by 10 a.m. I did not consider it a case of actual distress by any means, as by the master's own statement, he had plenty of other provisions, and all that he really and actually needed was to fill water.

The statement that I held his papers, although he asked for them, &c., and that I refused to give them to him until next morning, is all false. He did not ask further until next morning when he got his clearance. The statement that the treatment he received was harsh, and driving him to sea having little water and flour, &c., is all untrue, as what I have already stated will prove. Captain Medeo Rose was here with his vessel on the 23rd November last, and entered his vessel and obtained clearance at eight in the evening. Was here again on the 27th November, and remained five days for repairs, and nothing was said by him of the "inhuman conduct" or "harsh treatment" on the part of the Collector towards him.

The above is a plain statement of the facts, and many of the statements can be corroborated by the American Consul of this port, if referred to him.

I am, &c.,

(Sd.) W. W. ATWOOD,  
Collector.

J. JOHNSON, Esq.,  
Commissioner of Customs,  
Ottawa.

[Enclosure No. 4.]

*Affidavit of Joseph Tupper.*

I, Joseph Tupper, master of schooner "Jennie Seaverns," of Gloucester, being duly sworn, do depose and say:—That on Thursday, 26th October, while on my passage home from a fishing trip, the wind blowing a gale from south-east and a heavy sea running, I was obliged to enter the harbour of Liverpool, N.S., for shelter. Immediately on coming to anchor, was boarded by Captain Quigley of Canadian cruiser "Terror" who ordered me to go inshore at once and report at Custom House, to which I replied that such was my intention. He gave me permission to take two men in the boat with me, but they must remain in the boat and must not step on shore. I asked Captain Quigley if I could, after entering, visit some of my relations who resided in Liverpool and whom I had not seen for many years. This privilege was denied me. After entering, having returned to my vessel, some of my relatives came to see me off. When Captain Quigley saw their boat alongside my vessel, he sent an officer and boat's crew who ordered them away, and at sundown he placed an armed guard on board our vessel, who remained on board all night and was taken off just before we sailed in the morning.

I complied with the Canadian laws and had no intention or desire to violate them in any way, but to be made a prisoner on board my own vessel and treated like a suspicious character grates harshly upon the feelings of an American seaman, and I protest against such

treatment and respectfully ask from my own Government protection from such unjust, unfriendly and arbitrary treatment.

(Sd.) JOSEPH TUPPER. *ATQ*

MASS., ESSEX, SS., }  
4th November, 1886. }

Personally appeared Joseph Tupper and made oath to the truth of the above statement.

Before me,

(Sd.) AARON PARSONS,  
*Notary Public.*

[Enclosure No. 5.]

*Captain Quigley to Deputy Minister of Fisheries.*

NEWCASTLE, 19th January, 1887.

SIR,—In reference to the American schooner "Jennie Seaverns," of Gloucester, I find she arrived on Thursday, 28th October, as stated in his complaint, at Liverpool, N. S., and after she anchored, I sent Chief Officer Bennett on board with instructions telling him what the law was, so that he could not do anything through ignorance of it, and get his vessel in trouble. These instructions were to report his vessel at the Customs before sailing, and to take two of his crew and boat with him when he did go for that purpose, but the rest of his crew were not to go on shore, and that after he reported, no person from his vessel was to go on shore, as he got all he put in for, viz., shelter, and he reported his vessel putting in for that purpose and for no other—not for the purpose of letting his crew on shore.

The boat that was ordered from his vessel was from shore, and was not allowed alongside of these vessels as it gave the crews a chance to get ashore with them or to smuggle provisions alongside, so they were ordered off in all cases. See Chief Officer's Statement regarding it, also his statement regarding the men who rowed the captain on shore.

I never prevented the men who went ashore with the masters of vessels from landing and going with the masters to the Customs House if they wished, nor gave instructions to prevent them.

I placed two watchmen on board this vessel as I did in all other cases, to prevent them from breaking the law in any respect through the night, and they were taken off in the morning before he sailed.

It is not true that I boarded the vessel as he states. I never spoke to him. There were two other American seiners in at the same time and were treated in the same way, less the watchmen which were not required in their case, as they were close to me and I could see what was done on board them at all times, from my vessel. These are the facts.

I have the honour to be, Sir,  
Your obedient servant,

(Sd.) THOMAS QUIGLEY.

MAJOR JOHN TILTON,  
Deputy Minister of Fisheries.

[Enclosure No. 6.]

*Statement of First Officer Bennett.*

I, Albert Bennett, late First Officer of Dominion Cutter "Terror," Captain Quigley, remember boarding the American seiner "Jeannie Seaverns," of Gloucester, U.S., at the Port of Liverpool, N.S., on the 28th of October last past. Boarded her. Ordered Captain Tupper to report at the Customs at Liverpool aforesaid, which he did, taking with him two men in his boat. Never told Captain Tupper not to allow his men to leave his boat while on

shore. Further, Captain Tupper, to the best of my knowledge and belief, never intimated to me that he had friends or relatives that he wished to visit in Liverpool, N.S.

Seeing a boat alongside, I went on board and ordered them away. Captain Tupper told me he did not know the visitors, and further, did not wish them on board his vessel.

Further, during the time the "Jennie Seaverns" was in the harbour of Liverpool, N.S., Captain Quigley never was on board her, I boarding her and carrying out his instructions to me.

(Sd.) ALBERT BENNETT,  
*Late First Officer, Cutter "Terror."*

HOPEWELL CAPE, N.B.,  
14th January, 1887.

No. 191.

*Lord Lansdowne to Sir Henry Holland.*

OTTAWA, 2nd April, 1887.

SIR,—I have the honour to enclose herewith a certified copy of a Privy Council Order respecting the case of the United States' schooner, "Mollie Adams," which formed the subject of your predecessor's despatches Nos. 218 and 272 of the 6th October, and 16th December, respectively.

I have to express my regret that it should have proved impossible to supply you with the necessary information bearing upon this case at an earlier date. Some time was, however, taken in collecting the evidence embodied in the reports, copies of which accompany the minute, and the occurrence of the General Elections for the Federal Parliament to some extent interrupted the course of business in the public Departments and increased the delay.

You will find in the report of my Minister of Marine and Fisheries, and in the enclosures appended to it, a full and, I think, satisfactory reply to the whole of the charges made by the Government of the United States against the conduct of the Canadian officials concerned in the matter of the "Mollie Adams."

I would venture to draw your especial attention to the concluding passages of the Minister's Report in which he earnestly deprecates the manner in which in this, as well as in other cases in which disputes have arisen under conditions of a similar character, the Government of the United States has not hesitated to adopt without any enquiry, and to support with the whole weight of its authority, *ex parte* charges entirely unconfirmed by collateral evidence, and unaccompanied by any official attestation.

In view of the fact that owing to the action of the Government of the United States in terminating the Fishery clauses of the Treaty of Washington, a large body of American fishermen have suddenly found themselves excluded from waters to which they had for many years past resorted without molestation, and that the duty of thus excluding them has been thrown upon a newly constituted force of Fishery Police, necessarily without experience of the difficult and delicate duties which it is called upon to perform, there would be no cause for surprise if occasional cases of hardship or of over-zealous action upon the part of the local authorities engaged in protecting the interests of the Dominion were to be brought to light. It is the earnest desire of my Government to guard against the occurrence of any such cases, to deal in a spirit of generosity and forbearance with United States' Fishermen resorting to Canadian waters in the exercise of their lawful rights, and to take effectual measures for preventing arbitrary or uncalled for interference, on the part of its officials, with the privileges allowed to foreign fishermen under the terms of the Convention of 1818.

The difficulty of acting in such spirit must, however, be greatly increased by the course which has been pursued in this and in numerous other cases already

brought to your notice in founding not only the most urgent remonstrances, but the most violent and offensive charges and the most unjust imputation of motives upon complaints such as that put forward by the Captain of the "Mollie Adams," a person so illiterate that he appeared not to have been qualified to make out the ordinary entry papers on his arrival in a Canadian port, but whose statements, many of which bear upon the face of them evidence of their untrustworthiness, appear to have been accepted *in globo* without question by the Secretary of State.

You will, I cannot help thinking, concur in the opinion expressed in the Minister's Report that such hasty and indiscriminate accusations can only have the effect of prejudicing and embittering public feeling in both countries, and of retarding the prospect of a reasonable settlement of the differences which have unfortunately arisen between them upon these subjects.

I have, &c.,

(Sd.)

LANSDOWNE.

The Right Honourable  
Sir HENRY HOLLAND,  
&c., &c., &c.

[Enclosure No. 1.]

523g.

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Governor General in Council on the 31st March, 1887.

The Committee of the Privy Council have had under consideration a despatch dated 6th October, 1886, from the Right Honourable the Secretary of State for the Colonies, transmitting a copy of a letter from the Foreign Office enclosing copy of a despatch from Her Majesty's Minister at Washington, with a note from the Secretary of State of the United States, calling attention to the alleged refusal of the Collector of Customs at Port Mulgrave, Nova Scotia, to allow the master of the United States' fishing vessel "Mollie Adams," to purchase barrels to hold a supply of water for the return voyage, and also a further despatch dated 16th December, 1886, referring to the same schooner the "Mollie Adams" and her alleged treatment at Malpeque, Prince Edward Island and Port Medway, Nova Scotia, and requesting an early report on the circumstances of this case.

The Minister of Marine and Fisheries to whom the said despatches and enclosures were referred, submits the following report thereon:

Mr. Bayard's note of 10th September calls attention to the alleged refusal of the Collector of Customs at Port Mulgrave, Nova Scotia, to allow the master of the "Mollie Adams" to purchase barrels to hold a supply of water for which the vessel had put into port. The report of the Sub-Collector of Customs at Port Mulgrave, which is hereto annexed, and which he expresses his readiness to verify upon oath, shows that the "Mollie Adams" was fitted out with a water tank, which was reported as leaking, that the Collector offered to borrow barrels for carrying the water on board if the tank were made tight, and even offered to send a man on board to perform this work, that while the Captain of the schooner and he were in conversation, one of the crew brought the information that the cook had succeeded in caulking the tank. That thereupon the Sub-Collector borrowed the seven barrels with which the crew supplied water for their vessel, that the barrels were returned to the Collector, and the Captain appeared well pleased with what had been done. The good-will of the Sub-collector is also shown in his giving the men a letter to his superior officer in explanation of the circumstances, and recommending that the purchase of barrels be allowed, a step which was rendered unnecessary by the arrangements later made.

The Sub-Collector, in answer to his enquiry, as to what had become of the water barrels in use on board the vessel, was informed that they had been filled with mackerel. This answer goes to prove that Mr. Murray was acting strictly within the scope of his duty in ascertaining that the barrels sought to be purchased were not to be used for an illicit purpose.

The Colonial Secretary's despatch No. 272 of the 16th December, 1886, refers to the same schooner the "Mollie Adams" and her alleged treatment at Malpeque, Prince Edward Island, and Port Medway, Nova Scotia.

In this case Mr. Bayard's representations are based solely upon a letter written to him by the Captain of the vessel, under date 12th November, which is unsupported by any other evidence, and upon the strength of which Mr. Bayard proceeds to charge the Canadian authorities with "churlish and inhospitable treatment," and with exhibiting a coldness and rudeness of conduct at variance with the hospitable feelings of common humanity.

The Minister of Marine and Fisheries submits as a complete reply to the allegations contained in Captain Jacobs' letter: (1.) The statement of the Collector of Customs at Malpeque, P.E.I. (2.) The statement of Captain McLaren, of the Canadian cruiser "Critic," and (3) The report of the Collector of Customs at Port Medway.

The two former officers although giving their reports without concert, agree upon the main points at issue, and the statements of all three are clear, straightforward and reasonable and in marked contrast to the sensational and improbable story related by Captain Jacobs.

Captain Jacobs declares that on or about the 26th September last, during very heavy weather, he fell in with the barque "Neskilita," which had run on a bar at Malpeque Harbour, and became a total wreck. That he took off the crew, 17 in number, at 12 o'clock at night, carried them to his own vessel, fed them for three days, and then gave them \$60 with which to pay their fare home, and provisions to last them on their way. He states that the Captain of the Canadian cruiser "Critic" came on board, was told the circumstances but offered no assistance, and that no one on shore would take the wrecked men unless he became responsible for the payment of their board.

The Collector at Malpeque, in his report says, that early on the morning after the wreck, so soon as the news reached him, he repaired to the harbour to see what assistance could be given, that he there met the Captain of the "Neskilita" in company with Captain Jacobs, and was told by the latter that the crew of the wrecked vessel were comfortably cared for on his vessel, and that nothing more could be done.

Captain McLaren, of the "Critic," says that he at once visited the "Mollie Adams," and was told by Captain Jacobs that "he had made all arrangements for the crew."

The Collector and Captain McLaren agree in stating from information gathered by them, that the crew of the wrecked vessel came to shore in their own boat, unassisted, and after boarding a Nova Scotia vessel, were invited by Captain Jacobs, with whom the Captain of the "Neskilita" had before time sailed out of Gloucester to go on board the "Mollie Adams."

The Collector was asked by the Captain of the "Neskilita" if he could assist himself and crew to their homes, and answered that he could not unless assured that they were themselves without means for that purpose, in which case he would have to telegraph to Ottawa for instructions. The Captain of the "Neskilita" made no further application.

The Minister observes that it is the practice of the Dominion Government to assist shipwrecked and destitute sailors in certain cases of great hardship to their destination or homes, but in all cases it must be clear that they are destitute, and the application for assistance must be made to Ottawa through the Collector of Customs. Had such an application been made by the Captain of the "Neskilita" it would have received due consideration.

In answer to the charge that board could not be obtained for the wrecked crew, it is stated by Captain McLaren that the crew of a United States' vessel wrecked about the same time found no difficulty in getting board, and that the Captain of the "Neskilita" had himself arranged to board with the Collector, who expressed surprise at his failing to come.

Captain Jacobs complains that he was not allowed to land from his vessel the material saved from the wreck. To this charge the Collector replies that he received no intimation of any wrecked material, except the crew's luggage, being on board the "Mollie Adams," and that Captain Jacobs made no request to him regarding the landing of wrecked material, and that he (the Collector) gave all assistance in his power to the Captain of the "Neskilita" in saving material from the wreck.

It was subsequently discovered that Captain Jacobs had on board the "Mollie Adams" a seine from the wrecked vessel belonging to the underwriters, for taking care of which, when obliged to take it up, Captain Jacobs claimed and was paid the sum of ten dollars.

Captain Jacobs states that he was put to a loss of ten days' fishing by his detention with the "Neskilita". The reports of both the Collector and Captain McLaren agree in giving a very different and sufficient reason, viz.,—very bad weather and consequent inability to fish, a disability experienced by the whole fishing fleet at that time anchored in Malpeque.

The second complaint of Mr. Bayard is that when Captain Jacobs, experiencing a dearth of provisions as a consequence of his charitable action, shortly after put into Port Medway and asked to purchase half a barrel of flour and enough provisions to take him home, the Collector, "with full knowledge of all the circumstances," refused the request and threatened him with seizure if he bought anything whatever.

The Collector's report, hereto annexed, shows that Captain Jacobs entered his port on the 25th of October, fully one month after the occurrence at Malpeque, that in entering he made affirmation that he called for shelter and repairs and for no "other purpose whatever." That just before leaving he asked permission to purchase half a barrel of flour, and when asked by the Collector if he was without provisions, he replied that he was not, adding that he had "a good supply of all kinds of provisions except flour, and enough of that to last him home unless he met some unusual delay."

Under these circumstances the Collector did not give the permission asked, but he made no threat of seizure of vessel or imposition of a penalty.

Mr. Bayard supports the complaint of Captain Jacobs that he was charged fees for entering his vessel at Canadian Customs, and that these fees varied at different ports; being for instance 15 cents at Souris, P.E.I., 50 cents at Port Mulgrave, and 50 cents at Port Hood, at which latter port Captain Jacobs sent his brother to enter for him, but was informed that his entry was illegal, and that he, as master, must himself enter his vessel.

He complains of being obliged to pay twice, once for his brother's entry and once for his own.

The Minister states, with regard to this that no Collector of Customs in Canada is authorized to charge a fee for entering or clearing a vessel, nor for any papers necessary to do this. Sailing masters however, who are unused to the law or not competent to make out their papers, are in the habit of employing persons as Customs brokers to make out their papers for them, and for this service these brokers charge a small fee. These are not Government officers nor under Government control, and their services are voluntarily paid for by those who employ them. The small fees of which Captain Jacobs complains need not have been paid by him if he had been willing or qualified to make out his own papers. That he was not so willing or qualified, and that he employed a broker to make out his papers is conclusively shown by the following telegram received from the Collector at Port Hood, the charges at which port Mr. Secretary Bayard so vigorously denounces.

#### COPIES OF TELEGRAMS.

*Deputy Minister of Fisheries to Collector, Port Hood, N.S.*

OTTAWA, 16th March, 1887.

"Did you during last season exact from Captain Solomon Jacobs, of schooner 'Mollie Adams' any charge for reporting or other service at Port Hood? If so, please state amount received and for what."

*Collector, Port Hood, to Deputy Minister of Fisheries.*

PORT HOOD, N. S., 16th March, 1887.

"Solomon Jacobs, of schooner 'Mollie Adams,' sent one of his crew to report 13th September last. He made report. I told him, however, that the report should be made by the master. A few hours afterwards Jacobs himself came and reported, They got Dan. McLennan, who is now in Halifax, to write out the reports. I believe he charged them 25 cents each for brokerage. No other charges whatever were made."

The Minister states that he has no doubt that the other payments at Customs ports alluded to by Mr. Bayard were made for services rendered Captain Jacobs by persons making out his entry papers, and which he does not appear to have been qualified to do so himself.

With reference to Mr. Bayard's reiteration of Captain Jacob's complaint that in different harbours he was obliged to pay a different scale of dues, the Minister of Marine submits that in Canada there are distinct classes of harbours; some are under the control of a Commission appointed wholly or in part by the Government, under whose management improvements are made, and which regulates, subject to the approval of the Government, the harbour dues which are to be paid by all vessels entering such ports and enjoying the advantage therein provided.

Others are natural harbours, in great part unimproved, whose limits are generally defined by Order in Council, and for which a Harbour Master is appointed by Government, to whom all vessels entering pay certain nominal Harbour Master's fees, which are regulated by a general Act of Parliament, and which constitute a fund out of which the Harbour Master is paid a small salary for his services in maintaining order within the harbour. The Port of St. John, N. B., is entirely under municipal control, and has its own stated and uniform scale of charges.

Harbour dues are paid whenever a vessel enters a port which is under Commission, and Harbour Master's fees are paid only twice per calendar year by vessels entering ports not under a Commission. Sydney belongs to the first class, and at that port Captain Jacobs paid the legal harbour dues. Malpeque and Port Mulgrave belong to the second class, and in these Captain Jacobs paid the legal Harbour Master's fees, which for a vessel like his, of from 100 to 200 tons, is \$1.50. That he paid only \$1.00 in Malpeque is due to an error of the Harbour Master, who should have charged him \$1.50, and by this error Captain Jacobs saved fifty cents, of which he should not complain. For full information as to the legal status of Canadian Harbours, Mr. Bayard is respectfully referred to the Canadian Statutes, 36 Vic., cap. 63; 42 Vic., cap. 30, and 38 Vic., cap. 30.

The Minister of Marine and Fisheries believes that after a thorough perusal of these, Mr. Bayard will not cite the payments made by Captain Jacobs as evidences of the "irresponsible and different treatment to which he was subjected in the several ports he visited, the only common feature of which seems to have been a surly hostility."

The Minister submits that from a careful consideration of all the circumstances, he cannot resist the conviction that in this whole transaction Captain Jacobs was more concerned in making up a case against the Canadian authorities than in unobtrusively performing any necessary acts of hospitality, and that his version of the matter, as sent to Mr. Bayard, is utterly unreliable.

The "Neskilita" was wrecked off a Canadian harbour; the crew, it is stated, came ashore in their own boat and unassisted. A Canadian Collector was at hand offering his services, and within easy appeal to the Government, and the Captain of a Canadian cruiser was in port, yet Captain Jacobs would appear, by his own story, to have taken complete charge of the Captain, to have ignored all proffers of assistance, and to have constituted himself the sole guardian and spokesman of the wrecked crew, to have been in short the one sole man actuated by kindly, humane feelings, among a horde of cruel and unsympathetic Canadians.

For any exercise of good will and assistance to Canadian seamen in distress, by either foreign or native vessels, the Canadian Government cannot but feel deeply grateful, and stands ready, as has been its invariable custom, to recognize suitably and reward such services, and when Captain Jacobs performs any necessary act of charitable help towards Canadian seamen in distress, without the obvious aim of manufacturing an international grievance therefrom, he will not prove an exception to Canada's generous treatment.

The Minister observes that in a despatch to the Governor General, dated 27th December, 1886, and in reference to this same case, Mr. Stanhope writes:—"With reference to my Despatch No. 272 of the 16th instant, relating to the case of the United States' fishing vessel "Mollie Adams," and referring to the general complaints made on the part of the United States' Government of the treatment of American fishing vessels in Canadian ports, I think it right to observe that whilst Her Majesty's Government do not assume the correctness of any allegations without first having obtained the explanations of the Dominion Government, they rely confidently upon your Ministers taking every care that Her Majesty's Government are not placed in a position of being obliged to defend any acts of questionable justice or propriety."

The Minister while thanking Her Majesty's Government for the assurance conveyed that it will not "assure the correctness of any allegations without having obtained the explanations of the Dominion Government" and whilst assuring Her Majesty's Government that every possible care has been and will be taken that no "acts of questionable justice or propriety" are committed by the officers of the Dominion Government, cannot refrain from calling attention to the loose, unreliable and unsatisfactory nature of much of the information supplied to the United States' Government, and upon which very grave charges are made and very strong language officially used against the Canadian authorities. For instance, as stated in a previous part of this report, the strong representations made by Mr. Bayard in the case of the "Mollie Adams" are based solely upon a letter written by Captain Jacobs not even accompanied by an official attestation and not supported by a tittle of corroborative evidence.

It does not appear that any attempt was made to investigate the truth of this story unreasonable and improbable as it must have appeared, as the letter written by Captain Jacobs bears date 12th November, while Mr. Bayard's note based thereupon is dated 1st December. It would seem only fitting that, in so grave a matter, involving alike the good name of a friendly country, and the continued subsistence of previous amicable relations, great care should have been taken to avoid the use of such strong and even hostile language, based upon the unsupported statements of an interested skipper, and one whose reputation for straightforward conduct does not appear to be above reproach; if credence is to be given to the attached description taken from the *Boston Advertiser*, of a transaction said to have occurred in his native city, and in which Captain Jacobs appears to have played no enviable part.

Numerous other instances of like flimsy and unreliable foundations for charges made against the Canadian authorities in regard to their treatment of United States' fishing vessels cannot have failed to attract the attention of Her Majesty's Government in the despatches which from time to time have reached it from the United States.

The Master of a United States' fishing vessel, imperfectly understanding the provisions of the Convention of 1818, the requirements of the Canadian Customs laws, or the regulations of Canadian ports, having perhaps an exaggerated idea of his supposed rights, or it may be, desirous of evading all restrictions, is brought to book by officers of the law. He feels aggrieved and angry and straightway conveys his supposed grievance to the authorities at Washington.

Thereupon, without any seeming allowance for the possibility of the statement being inaccurate or the narrator unfriendly, and with apparently no attempt to investigate the truth of the statement, it is made the basis of strong and unfriendly charges against the Canadian Government. Canada has suffered from such unfounded representations and against the course adopted by the United States' Government in this respect the Minister enters his most earnest protest.

As an additional instance of the manner in which evidence is gathered and used to the prejudice of the Canadian case, the Minister calls attention to a communication submitted to the Senate of the United States by Mr. Edmunds, and which forms printed Document No. 54 of the 49th Congress, 2nd Session. This is the report of Mr. Spencer F. Baird, United States' Fish Commissioner, containing a list, with particulars, of 68 New England Fishing Vessels, which had, as he alleged, "been subjected to treatment which neither the Treaty of 1818, nor the principles of International law would seem to warrant."

*Vide Printed Senate Document referred to.*

The Minister observes that it will appear, from a perusal of this report, that these 68 cases were made up by Mr. Baird's officer from answers of owners, agents or masters of fishing vessels, in response to a circular letter sent to all New England fishing vessels, inviting them to forward statements of any interference with their operations by the Canadian Government.

Not a single statement was investigated by the Commissioner, or any one acting for him, and not a single statement is accompanied by the affidavit of the person making it, or by corroborative evidence of any kind. In most instances, neither date, locality, nor name of Canadian officer is given, and an analysis of many of the cases affords *prima facie* evidence that they embody no real cause for complaint. Yet Mr. Baird and his officer, Mr. Earle, vouched for the correctness and entire reliability of these 68 statements. They were gravely submitted to the Senate as trustworthy evidence of Canadian aggression, and became no doubt powerful factors in influencing Congressional legislation hostile to Canadian and British interests.

The Minister, while inviting attention to, and strongly deprecating such action, as above recited, on the part of the United States, takes occasion, at the same time, to express his entire confidence that the rights of Canada will not thereby be in any degree prejudiced in the eyes of Her Majesty's Government.

The Committee concur in the foregoing report of the Minister of Marine and Fisheries, and they recommend that Your Excellency be moved to transmit a copy of this Minute, if approved, to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for Your Excellency's approval.

(Sd.) JOHN J. McGEE,  
Clerk, Privy Council, Canada.

[Enclosure No. 2.]

PORT MULGRAVE, N.S., 1st November, 1886.

SIR,—Referring to your letter of the 23th October, I beg to say that on Monday the 30th August, the schooner "Mollie Adams," of Gloucester, Mass., Solomon Jacobs, Master, passed two Customs ports in the Strait of Canso before coming to my port. In fact he sent his boat (dory) with his brother and a Capt. Campbell to me, to see if I would allow him to get seven empty barrels to put water in. I asked the men what they did with their water barrels. They told me that they filled them with mackerel and that their tank leaked. I told the men that I had no power to allow them to purchase barrels, but I would borrow barrels to fill with water if they would caulk the tank. I also gave them a letter to take to my superior, asking him to allow Captain Jacobs to purchase the barrels. They went on board, told their story and the captain anchored his vessel and came ashore to see me. I offered to send a man on board to caulk the tank. In the meantime one of the crew came on shore

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and said that the cook had succeeded in tightening the tank, that it held salt water. I then borrowed the seven barrels to fill the water which they did, and I returned the barrels again, and the captain was well pleased, as he appeared so.

If this is not satisfactory I can make oath to the foregoing.

I am, &c.,

(Sd.) DAVID MURRAY, JR.,  
*Sub-Collector Customs.*

JOHN TILTON, Esq.,  
Deputy Minister of Fisheries,  
Ottawa.

[Enclosure No. 3.]

MALPEQUE, P.E.I., 7th January, 1887.

SIR,—I have the honour to acknowledge the receipt of your letter of the 29th December, covering statement made by Captain Jacobs, and now adjoin statement of facts as personally known by and communicated to me of wreck of "Neskilita," on Malpeque Bar, on Sunday night, 26th September last. Information reached me early on the following morning, and I at once proceeded to the harbour to see what assistance could be given in the case, where I met Captain Thornborne of "Neskilita," and Captain Jacobs in company, and was informed by latter that the crew were on board his vessel and assured that everything that could be done for their comfort had been done. I was also given to understand that during the night the crew had abandoned their schooner and came in the harbour unassisted, in their seine-boat and boarded a Nova Scotia schooner lying in the harbour, and were next morning invited by Captain Jacobs to make his vessel their home. I was also informed by Captain McLaren, commander of the Canadian cruiser "Critic," that he also tendered his assistance and was rather haughtily received by Captain Jacobs, with the information that the crew were aboard his vessel and that he (Captain McLaren) did not think the case demanded him to force his assistance.

With regard to the wrecked material aboard of Capt. Jacobs' vessel, I have only to say that this is the first intimation I have ever heard of such material being aboard his vessel, except the crew's baggage, and that assuredly Captain Jacobs did not so far as I can recollect, make any request of me whatsoever with regard to the landing of wrecked material.

With reference to the saving of material from the wrecked vessel, I would wish to say that I rendered the Captain of the "Neskilita" all necessary assistance in procuring suitable men to do that work (and who were thus employed by him) and although I am aware that Captain Jacobs did accompany the Captain of the "Neskilita" to the wreck, I cannot say in what capacity or under what authority he did so.

So far as the assertion that the crew received the means to take them home from Captain Jacobs is concerned, I know nothing positive, except that he (Captain Jacobs) asked me if the Canadian Government would remunerate him for his attention to the crew, and feeling that I had nothing to do with him, I merely replied that I did not know. But, I may say that shortly after the wreck occurred, the Captain of the "Neskilita" asked me if I could render them (the crew) any assistance in getting home, and I answered that I could not unless I was assured that they themselves were without the means of doing so, and that in any case I would have to telegraph to the Department at Ottawa for instructions. Here the matter stopped, the captain making no further application.

With regard to the delay of ten days said to be occasioned (Captain Jacobs), by reason of the shipwrecked crew, I may say that during the ten or fourteen days following on the said shipwreck, we had an almost continuous period of stormy weather, with the exception of a couple or so of fine days, which were taken advantage of by the fishing fleet, and one at least by Captain Jacobs himself, but by all reports received by me, resulting in little or no catches of mackerel.

These, so far as I can now recall them to memory, are the true facts in the case.

I am, Sir, &c.,

(Sd.) JAMES M. MACNUTT,  
*Sub-Collector.*

JOHN TILTON, Esq.,  
Deputy Minister of Fisheries,  
Ottawa.

[Enclosure No. 4.]

GEORGETOWN, P.E.I., 6th January, 1887.

DEAR SIR,—Yours of the 29th ultimo to hand. In reference to the first part of the statement made by Captain Jacobs, I would say that he may have been off Malpeque, at the time the wreck occurred, but I do not think he took the crew off, as, so far as I could learn at the time, they came ashore in one of their own seine boats, and went first to a Nova Scotia vessel and afterwards on board the "Mollie Adams."

On the morning after the wreck occurred, I went on board the "Mollie Adams," and was immediately told by Captain Jacobs that he had made all arrangements for the crew, and having secured a team, was going with the Captain of the "Neskilita," to the Custom House to note a protest. As I could see by the conduct of both Captains that I was not wanted, I returned to my own vessel. Afterwards in the course of a conversation with the Captain of the "Neskilita," he informed me that he had sailed out of Gloucester for some time, and in the course of that time with Captain Jacobs.

As to the statement that he could not get a boarding house for his crew, I think it is false, as the crew of one of the American vessels wrecked about the same time had no difficulty in getting the people to board them. Once, while talking with Mr. Macnutt, the Collector of Customs at Malpeque, he mentioned that the Captain of the "Neskilita," had engaged to board at his place, and he expressed his surprise that he was not coming. Both Captain Jacobs and the Captain of the "Neskilita" were committing a fraud in trying to get off with the seine of the wrecked vessel, as it belonged to the underwriters, and I think that it was the prospect of getting Captain Jacobs to get away with the seine, that prevented the Captain of the "Neskilita" from asking me for assistance. However, Captain Jacobs, on finding he could not carry out his fraud, presented a claim of \$10 for the salvage of the seine and gear, which sum was paid him by Mr. Lem. Poole, of Charlottetown, who was acting in behalf of the underwriters. It may be possible that Captain Jacobs stayed at Malpeque after I sailed, but, if so, it was his own fault, as the crew of the "Neskilita" had gone home before them.

It is my opinion that Captain Jacobs need not have lost one hour of time, for during the time the "Neskilita's" crew were on board his vessel, the fleet with the exception of one or two small vessels, was anchored at Malpeque, and unable to put to sea owing to the heavy sea on the bar.

After the occurrence of the wreck, about the 20th September, Captain Jacobs cruised in the North Bay and on the Cape Breton coast, and not until the 24th October, was he reported as passing through Canso bound home.

As to the paying of the crew's passage home, I can say nothing, except that if he did, he did voluntarily, as the Captain of the "Neskilita" could have sent his crew home without his assistance.

Yours respectfully,

(Sd.) WM. McLAREN.

JOHN TILTON, Esq.,  
Deputy Minister of Fisheries,  
Ottawa.

[Enclosure No. 5.]

CUSTOM HOUSE, PORT MEDWAY, 6th January, 1887.

SIR,—In reply to your letter of the 30th ultimo, enclosing extract of statement made by Capt. S. Jacobs, of the schooner "Mollie Adams," I have to say, that on the 25th October last, Capt. S. Jacobs, of the schooner "Mollie Adams," reported at this office. His report is now before me, in which he swears that he called here for shelter and repairs and for no other purpose. After making his report, and when about leaving the office, Capt. Jacobs asked if I would allow him to purchase a half barrel of flour. I asked him if he was without provisions and he replied that he was not, adding that he had a good supply of all kinds of provisions except flour, and enough of that to last him home, unless he met with some unusual delay. I then told him that under the circumstances I could not give him permission to purchase the flour, but no threat was made about seizing his vessel or imposing any penalty whatever.

The above I am quite willing to substantiate under oath, and can produce a witness to the truth of the statement.

I am, &amp;c.,

(Sd.) E. E. LETSOM,  
Collector.

THE DEPUTY MINISTER OF FISHERIES,  
Ottawa, Canada.

[Enclosure No. 6.]

*From the Boston, United States, "Advertiser" of 19th November, 1886.*

## GLOUCESTER POLITICS.

*An appearance of Ballot Stuffing—George Morse Nominated for Mayor.*

GLOUCESTER, Nov. 13th.—At a citizens mass meeting held here this evening, Lawyer Taft, chairman, to nominate a mayor, a committee consisting of J. J. Whalen, Albert P. Babson, Captain Solomon Jacobs, J. N. Dennison and Edwin L. Lane was appointed to count ballots. After much wrangling one informal and three formal ballots were taken, when Mr. Dennison made a minority report, accusing Captain Solomon Jacobs of stuffing the ballot box. William T. Merchant counted the ballots while being cast, making 264, but the committee reported 312 cast, which tended to show that Jacobs had put in 48 illegally.

Much excitement prevailed, and a motion was made that he be dismissed from the committee. The chairman called for Jacobs to come forward and explain his action, but it was found that he had disappeared. He was in favour of David J. Robinson as candidate for mayor, but went over to William A. Pew, Jr.

Another ballot was taken and Dr. George Morse received the nomination.

No. 192.

*Sir H. Holland to Lord Lansdowne.*

(No. 73.)

DOWNING STREET, 7th April, 1887.

MY LORD,—I have the honour to transmit to you, for the information of your Government, with reference to previous correspondence, copy of a despatch from Her Majesty's Minister at Washington, forwarding a précis of the debate in the United States' House of Representatives on the Retaliatory Bill.

I have, &amp;c.,

(Sd.) H. T. HOLLAND.

Governor General

The Most Honourable,

THE MARQUIS OF LANSDOWNE,

. &amp;c., &amp;c., &amp;c.

[Enclosure No. 1.]

*Sir L. West to the Marquis of Salisbury.*

(Treaty No. 28.)

WASHINGTON, 24th February, 1887.

*Vide Congressional Record, 23rd February, 1887.*

MY LORD,—I have the honour to enclose to Your Lordship herewith copies of the Retaliatory Bill as passed by the House of Representatives yesterday by a vote of 252 to 1.

This Bill is a substitute for the Senate Bill, and authorizes the stopping of cars carrying goods in transit, provided for under Article XXIX of the Treaty of 1871. This clause, it was objected, would be in violation of the Treaty, and was an invasion unworthy of a civilized country.

The Senate Bill, on the contrary, was retortion—it was retaliation in kind—always the most efficient. The House, however, refused to adopt the argument and adhered to the Substitute Bill which was unanimously carried.

I have the honour to enclose a *pécis* which I have made of the debate.

I am, &c.,

(Sd.) L. S. SACKVILLE WEST.

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[Enclosure 1 in No. 1.]

Extract from the "Congressional Record" of 25th February, 1887. (See "Congressional Record" of that date.)

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No. 193.

*Lord Lansdowne to Sir Henry Holland.*

(No. 112.) CANADA, GOVERNMENT HOUSE,  
OTTAWA, 12th April, 1887.

SIR,—I caused to be referred for the consideration of my Government a copy No. 181. of your despatch, No 42, of the 23rd of February last, transmitting copy of a letter from the Foreign Office, with its enclosures, respecting the case of the "Sarah H. Prior," and requesting to be furnished with a report upon the alleged conduct of the Captain of the Canadian revenue cutter "Critic" on the occasion referred to, and I have now the honour to forward to you herewith a certified copy of an approved Report of a Committee of the Privy Council embodying a statement of Captain McLaren of the "Critic" with reference to the circumstances complained of.

I have, &c.

(Sd.) LANSDOWNE.

To Right Honourable,  
SIR HENRY HOLLAND, BART.,  
&c., &c., &c.

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[Enclosure No. 1.]

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Governor General in Council on the 7th April, 1887.

The Committee of the Privy Council have had under consideration a despatch dated 23rd February, 1887, from the Right Honourable the Secretary of State for the Colonies asking that an investigation be made into the conduct of the Captain of the Canadian cruiser "Critic" as regards the treatment extended to Captain McLauchlan, of the United States' fishing schooner "Sarah H. Prior" in the harbour of Malpeque, Prince Edward Island, in September last.

The Minister of Marine and Fisheries, to whom the despatch was referred, submits the following statement of Captain McLaren, of the "Critic," with reference to the circumstance complained of.

On or about the 14th September, 1886, Captain McLauchlan, of the "Sarah H. Prior," came on board the Government cruiser "Critic," at Malpeque, Prince Edward Island, wanting to know if he would be infringing on the laws by paying the captain of the schooner "John Ingalls" a small sum of money for the recovery of a seine which he said he had lost a few days before, and which had been picked up by the said captain.

I told him that I would not interfere with him if the captain of the "Ingalls" chose to run the risk of taking the matter in his own hands, but that the proper course would be for the captain of the "John Ingalls" to report the matter to the Collector of Customs, who was also Receiver of Wrecks, and then if he (Captain McLauchlan) could prove that the seine was his, he could recover it by paying the costs. Captain McLauchlan then said, that as the seine was all torn to pieces he would not bother himself about it.

The captain of the "John Ingalls" did not come to see me about the matter, and I heard nothing of it afterwards.

(Sd.) W. McLAREN.

The Committee respectfully advise that Your Excellency be moved to forward the foregoing statement of Captain McLaren to the Right Honourable the Secretary of State for the Colonies in answer to his despatch of the 23rd February last.

(Sd.) JOHN J. MCGEE,  
*Clerk, Privy Council, Canada.*

No. 194.

*Sir H. Holland to Lord Lansdowne.*

(No. 78.)

DOWNING STREET, 14th April, 1887.

MY LORD,—With reference to previous correspondence, I have the honour to transmit to you, for the information of Your Lordship's Government, a copy of the reply which the Marquis of Salisbury has made to Mr. Phelps' note of the 3rd of December last, on the subject of the proposed *ad interim* arrangement relative to the North American Fisheries.

*Vide* Enclosure No. 1 of No. 170.

I have, &c.,

(Sd.) H. T. HOLLAND.

Governor General,

The Most Honourable

The MARQUIS OF LANSDOWNE,

&c., &c., &c.

[Enclosure No. 1.]

*The Marquis of Salisbury to Mr. White.*

FOREIGN OFFICE, 24th March, 1887.

SIR,—In a note of the 3rd December last, addressed to my predecessor, Mr. Phelps was good enough to transmit a copy of a despatch from Mr. Bayard, dated the 15th of the preceding month, together with an outline of a proposed *ad interim* arrangement "for the settlement of all questions in dispute in relation to the fisheries in the North-Eastern Coast of British North America."

*Vide* Enclosures Nos. 1 & 2 of No. 165.

Her Majesty's Government have given their most careful consideration to that communication, and it has also received the fullest examination at the hands of the Canadian Government, who entirely share the satisfaction felt by Her Majesty's Government

at any indication on the part of that of the United States of a disposition to make arrangements which might tend to put the affairs of the two countries on a basis more free from controversy and misunderstanding than unfortunately exists at present. The Canadian Government, however, deprecate several passages in Mr. Bayard's despatch, which attribute unfriendly motives to their proceedings, and in which the character and scope of the measures they have taken to enforce the terms of the Convention of 1818 are, as they believe, entirely misapprehended.

They insist that nothing has been done on the part of the Canadian authorities since the termination of the Treaty of Washington in any such spirit as that which Mr. Bayard condemns, and that all that has been done with a view to the protection of the Canadian fisheries, has been simply for the purpose of guarding the rights guaranteed to the people of Canada by the Convention of 1818, and of enforcing the Statutes of Great Britain and of Canada in relation to the fisheries. They maintain that such Statutes are clearly within the powers of the respective Parliaments by which they were passed, and are in conformity with the Convention of 1818, especially in view of the passage of the Convention which provides that the American fishermen shall be under such restrictions as shall be necessary to prevent them from abusing the privileges thereby reserved to them.

There is a passage in Mr. Bayard's despatch to which they have particularly called the attention of Her Majesty's Government. It is the following :

"The numerous seizures made have been of vessels quietly at anchor in established ports of entry, under charges which up to this day have not been particularized sufficiently to allow of intelligent defence ; not one has been condemned after trial and hearing, but many have been fined, without hearing or judgment, for technical violation of alleged Commercial Regulations, although all commercial privileges have been simultaneously denied to them."

In relation to this paragraph the Canadian Government observe that the seizures of which Mr. Bayard complains have been made upon grounds which have been distinctly and unequivocally stated in every case ; that, although the nature of the charges has been invariably specified and duly announced, those charges have not in any case been answered ; that ample opportunity has in every case been afforded for a defence to be submitted to the Executive authorities, but that no defence has been offered beyond the mere denial of the right of the Canadian Government : that the Courts of the various Provinces have been open to the parties said to be aggrieved, but that not one of them has resorted to those Courts for redress. To this it is added that the illegal acts which are characterized by Mr. Bayard as "technical violations of alleged Commercial Regulations," involved breaches, in most of the cases not denied by the persons who had committed them, of established Commercial Regulations, which, far from being specially directed or enforced against citizens of the United States, are obligatory upon all vessels (including those of Canada herself) which resort to the harbours of the British North American coast.

I have thought it right, in justice to the Canadian Government, to embody in this note almost in their own terms their refutation of the charges brought against them by Mr. Bayard ; but I would prefer not to dwell on this part of the controversy, but to proceed at once to the consideration of the six articles of Mr. Bayard's memorandum in which the proposals of your Government are embodied.

Mr. Bayard states that he is "encouraged in the expectation that the propositions embodied in the memorandum will be acceptable to Her Majesty's Government, because in the month of April, 1866, Mr. Seward, then Secretary of State, sent forward to Mr. Adams, at that time United States' Minister in London, the draft of a Protocol which, in substance, coincides with the 1st Article of the proposals now submitted."

Article I of the memorandum, no doubt to some extent, resembles the draft Protocol submitted in 1866, by Mr. Adams to Lord Clarendon (of which I enclose a copy for convenience of reference), but it contains some important departures from its terms.

Nevertheless, the article comprises the elements of a possible accord, and if it stood alone, I have little doubt that it might be so modelled, with the concurrence of your Government, as to present an acceptable basis of negotiation to both parties. But, unfortunately, it is followed by other articles, which, in the view of Her Majesty's Government and that of Canada, would give rise to endless and unprofitable discussion, and which, if retained, would be fatal to the prospect of any satisfactory arrangement, inasmuch as they appear, as a whole, to be based on the assumption that upon the most important points in the controversy the views entertained by Her Majesty's Government and that of Canada are wrong, and those of the United States' Government are right, and to imply an admission by Her Majesty's Government and that of Canada that such assumption is well founded.

I should extend the present note to an undue length were I to attempt to discuss in it each of the articles of Mr. Bayard's memorandum, and to explain the grounds on which Her Majesty's Government feel compelled to take exception to them. I have, therefore, thought

it more convenient to do so in the form of a counter-memorandum which I have the honour to enclose, and in which will be found in parallel columns, the articles of Mr. Bayard's memorandum and the observations of Her Majesty's Government thereon.

Although as you will perceive on a perusal of those observations, the proposal of your Government as it now stands is not one which could be accepted by Her Majesty's Government, still Her Majesty's Government are glad to think that the fact of such a proposal having been made affords an opportunity which, up to the present time, had not been offered for an amicable comparison of the views entertained by the respective Governments.

The main principle of that Proposal is that a mixed commission should be appointed for the purpose of determining the limits of those territorial waters within which, subject to the stipulations of the Convention of 1818, the exclusive right of fishing belongs to Great Britain.

Her Majesty's Government cordially agree with your Government in believing that a determination of these limits would, whatever may be the future commercial relations between Canada and the United States either in respect of the fishing industry or in regard to the interchange of other commodities, be extremely desirable and they will be found ready to co-operate with your Government in effecting such settlement.

They are of opinion that Mr. Bayard was justified in reverting to the precedent afforded by the negotiations which took place upon this subject between Great Britain and the United States after the expiration of the Reciprocity Treaty of 1854, and they concur with him in believing that the draft Protocol communicated by Mr. Adams in 1866 to the Earl of Clarendon affords a valuable indication of the lines upon which a negotiation directed to the same points might now be allowed to proceed.

Mr. Bayard has himself pointed out that its concluding paragraph, to which Lord Clarendon emphatically objected, is not contained in the 1st Article of the memorandum now forwarded by him; but he appears to have lost sight of the fact that the remaining Articles of that memorandum contain stipulations not less open to objection, and calculated to affect even more disadvantageously the permanent interests of the Dominion in the fisheries adjacent to its coasts.

There can be no objection on the part of Her Majesty's Government to the appointment of a mixed Commission, whose duty it would be to consider and report upon the matters referred to in the three first Articles of the draft Protocol communicated to the Earl of Clarendon by Mr. Adams in 1866.

Should a Commission instructed to deal with these subjects be appointed at an early date, the result of its investigations might be reported to the Governments affected without much loss of time. Pending the termination of the questions which it would discuss, it would be indispensable that United States' fishing vessels entering Canadian bays and harbours should govern themselves not only according to the terms of the Convention of 1818, but by the Regulations to which they, in common with other vessels, are subject while within such waters.

Her Majesty's Government, however, have no doubt that every effort will be made to enforce those regulations in such a manner as to cause the smallest amount of inconvenience to fishing vessels entering Canadian ports under stress of weather, or for any other legitimate purpose.

But there is another course which Her Majesty's Government are inclined to propose, and which, in their opinion, would afford a temporary solution of the controversy equally creditable to both parties.

Her Majesty's Government have never been informed of the reasons which induced the Government of the United States to denounce the Fishery Articles of the Treaty of Washington, but they have understood that the adoption of that course was in a great degree the result of a feeling of disappointment at the Halifax Award, under which the United States were called upon to pay the sum of £1,100,000, being the estimated value of the benefits which would accrue to them, in excess of those which would be derived by Canada and Newfoundland from the operation of the Fishery Articles of the Treaty.

Her Majesty's Government and the Government of Canada, in proof of their earnest desire to treat the question in a spirit of liberality and friendship, are now willing to revert for the coming fishing season, and, if necessary, for a further term, to the condition of things existing under the Treaty of Washington, without any suggestion of pecuniary indemnity.

This is a proposal which, I trust, will commend itself to your Government as being based on that spirit of generosity and good-will which should animate two great and kindred nations, whose common origin, language, and institutions constitute as many bonds of amity and concord.

I have, &c.,

(Sd.) SALISBURY.

## [Enclosure No. 2.]

DRAFT PROTOCOL *communicated by Mr. Adams to the Earl of Clarendon, in 1866.*

Whereas in the 1st Article of the Convention between the United States and Great Britain, concluded and signed in London on the 26th October, 1818, it was declared that—

“The United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty’s Dominions in America, not included within certain limits heretofore mentioned.”

And whereas differences have arisen in regard to the extent of the above-mentioned renunciation, the Government of the United States and Her Majesty the Queen of Great Britain, being equally desirous of avoiding further misunderstanding, have agreed to appoint, and do hereby authorize the appointment, of a mixed Commission for the following purposes, namely :—

1. To agree upon and define, by a series of lines, the limits which shall separate the exclusive from the common right of fishery, on the coasts and in the seas adjacent, of the British North American Colonies, in conformity with the 1st Article of the Convention of 1818. The said lines to be regularly numbered, duly described, and also clearly marked on charts prepared, in duplicate, for the purpose.

2. To agree upon and establish such regulations as may be necessary and proper to secure to the fishermen of the United States the privilege of entering bays and harbours for the purpose of shelter ; and of repairing damages therein, of purchasing wood, and of obtaining water ; and to agree upon and establish such restrictions as may be necessary to prevent the abuse of the privilege reserved by said Convention to fishermen of the United States.

3. To agree upon and recommend the penalties to be adjudged, and such proceedings and jurisdiction as may be necessary to secure a speedy trial and judgment with as little expense as possible, for the violation of rights and the transgression of the limits and restrictions which may be hereby adopted.

Provided, however, that the limits, restrictions and regulations which may be agreed upon by the said Commission shall not be final, nor have any effect, until so jointly confirmed and declared by the United States and Her Majesty the Queen of Great Britain, either by treaty or by laws mutually acknowledged and accepted by the President of the United States, by and with the consent of the Senate and by Her Majesty the Queen of Great Britain.

Pending a definitive arrangement on the subject, the United States’ Government engages to give all proper orders to officers in its employment ; and Her Britannic Majesty’s Government engages to instruct the proper Colonial or other British officers to abstain from hostile acts against British and United States’ fishermen respectively.”

## [Enclosure No. 3.]

*Observations on Mr. Bayard’s Memorandum.—(Vide Enclosure No. 2, of 165, page 179.)*

The most important departure in Article I from the Protocol of 1866 is the interpolation of the stipulation, “that the bays and harbours from which American vessels are in future to be excluded, save for the purposes for which entrance into bays and harbours is permitted by said article, are hereby agreed to be taken to be such harbours as are 10 or less than 10 miles in width, and the distance of three marine miles from such bays and harbours shall be measured from a straight line drawn across the bay or harbour in the part nearest the entrance at the first point where the width does not exceed ten miles.”

This provision would involve a surrender of fishing rights which have always been regarded as the exclusive property of Canada, and would make common fishing grounds of territorial waters which, by the law of nations, have been invariably regarded both in Great Britain and the United States as belonging to the adjacent country. In the case, for instance, of the Baie des Chaleurs, a peculiarly well marked and almost land-locked indentation of the Canadian coast, the ten-mile line would be drawn from points in the heart of Canadian territory, and almost seventy miles distant from the natural entrance or mouth of the bay. This would be done in spite of the fact that, both by imperial legislation and by judicial interpretation, this bay has been declared to form a part of the territory of Canada. (See

Imperial Statute 14 and 15 Vic., chap. 63; and "*Mowat v. McPhee*," 5 Supreme Court of Canada Reports, page 66.)

The convention with France in 1839, and similar conventions with other European powers, form no precedents for the adoption of a ten-mile limit. Those conventions were doubtless passed with a view to the geographical peculiarities of the coast to which they related.

They had for their object the definition of boundary lines, which, owing to the configuration of the coast, perhaps could not readily be settled by reference to the law of nations and involve other conditions which are inapplicable to the territorial waters of Canada.

This is shown by the fact that in the French convention the whole of the oyster beds in Granville Bay, otherwise called the Bay of Cancale, the entrance of which exceeds ten miles in width, were regarded as French, and the enjoyment of them is reserved to the local fishermen.

A reference to the action of the United States' Government and to the admission made by their statesmen in regard to bays on the American coasts, strengthens this view; and the case of the English ship "*Grange*" shows that the Government of the United States in 1793 claimed Delaware Bay as being within territorial waters.

Mr. Bayard contends that the rule which he asks to have set up was adopted by the umpire of the commission appointed under the Convention of 1854 in the case of the United States fishing schooner "*Washington*," that it was by him applied to the Bay of Fundy, and that it was for this reason applicable to other Canadian bays.

It is submitted, however, that as one of the headlands of the Bay of Fundy is in the territory of the United States, any rules of international law applicable to that bay are not therefore equally applicable to other bays, the headlands of which are both within the territory of the same power.

The second paragraph of the 1st Article does not incorporate the exact language of the Convention of 1818. For instance the words "and for no other purpose whatever," should be inserted after the mention of the purposes for which vessels may enter Canadian waters, and after the words "as may be necessary to prevent," should be inserted "their taking, drying, or curing fish therein, or in any other manner abusing the privileges reserved," &c.

To make the language conform correctly to the Convention of 1818, several other verbal alterations, which need not be enumerated here, would be necessary.

Article II would suspend the operation of the Statutes of Great Britain and of Canada, and of the Provinces now constituting Canada, not only as to the various offences connected with fishing, but as to Customs, harbours and shipping, and would give to the fishing vessels of the United States privileges in Canadian ports which are not enjoyed by vessels of any other class, or of any other nation. Such vessels would, for example, be free from the duty of reporting at the Customs on entering a Canadian harbour, and no safeguard could be adopted to prevent infraction of the Customs laws by any vessel asserting the character of a fishing vessel of the United States.

Instead of allowing to such vessels merely the restricted privileges reserved by the Convention of 1818, it would give them greater privileges than are enjoyed at the present time by any vessels in any part of the world.

Article III would deprive the Courts in Canada of their jurisdiction, and would vest that jurisdiction in a tribunal not bound by legal principles, but clothed with supreme authority to decide on most important rights of the Canadian people.

It would submit such rights to the adjudication of two naval officers, one of them belonging to a foreign country, who, if they should disagree and be unable to choose an umpire, must refer the final decision of the great interests which might be at stake to some person chosen by lot.

If a vessel charged with infraction of Canadian fishing rights should be thought worthy of being subjected to a "judicial examination," she would be sent to the Vice-Admiralty Court at Halifax; but there would be no redress, no appeal, and no reference to any tribunal if the naval officers should think proper to release her.

It should, however, be observed, that the limitation in the second sentence of this Article of the violations of the Convention which are to render a vessel liable to seizure, could not be accepted by Her Majesty's Government.

For these reasons, the Article, in the form proposed, is inadmissible; but Her Majesty's Government are not indisposed to agree to the principle of a joint enquiry by the naval officers of the two countries in the first instance, the vessel to be sent for trial at Halifax, if the naval officers do not agree that she should be released.

They fear, however, that there would be serious practical difficulties in giving effect to this arrangement, owing to the great length of coast, and the delays, which must in consequence be frequent, in securing the presence at the same time and place of the naval officers of both powers.

Article IV is also open to grave objection. It proposes to give the United States' fishing vessels the same commercial privileges as those to which other vessels of the United States are entitled, although such privileges are expressly renounced by the Convention of 1818 on behalf of fishing vessels, which were thereafter to be denied the right of access to Canadian waters for any purpose whatever, except those of shelter, repairs, and the purchase of wood and water. It has frequently been pointed out that an attempt was made, during the negotiations which preceded the Convention of 1818, to obtain for the fishermen of the United States the right of obtaining bait in Canadian waters, and that this attempt was successfully resisted. In spite of this fact, it is proposed, under this Article, to declare that the Convention of 1818 gave that privilege, as well as the privilege of purchasing other supplies in the harbours of the Dominion.

Article V proposes to give retrospective effect to the unjustified interpretation sought to be placed on the Convention by the last preceding Article.

It is assumed, without discussion, that all United States' fishing vessels which have been seized since the expiration of the Treaty of Washington, have been illegally seized, leaving as the only question still open for consideration, the amount of damages for which the Canadian authorities are liable.

Such a proposal seems to Her Majesty's Government quite inadmissible.

Article VI calls for no remark.

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No. 195.

*The Governor General to Sir Henry Holland.*

GOVERNMENT HOUSE,

[No. 140.]

OTTAWA, 27th April, 1887.

SIR,—With reference to previous correspondence on the subject of the Fishery Question, I have the honour to transmit to you a copy of an approved Minute of my Privy Council, to which is appended a copy of the Special Instructions issued for this season to the officers in command of vessels employed in the protection of the Canadian Fisheries on the Atlantic coast.

I have much pleasure in calling your attention to the passages in which the Minister impresses upon such officers that in carrying out these instructions they are to be most careful not to strain the interpretation of the law in the direction of interference with the rights and privileges remaining to the United States' fishermen in Canadian waters, under the Convention of 1818, and that the largest liberty compatible with the full protection of Canadian interests is to be granted to United States' vessels in obtaining in Canadian waters the privileges to which they are entitled under that Convention.

You will also observe that it has been determined to authorize the captains of cruisers in harbours to which United States' fishing vessels are accustomed to resort for shelter only, to take entry from and grant clearance to the Masters of such vessels without requiring them to go on shore for that purpose. This step has been taken in order to avoid the delay which has in some cases inevitably taken place owing to the necessity of requiring Masters of these fishing vessels to report to the collector at the nearest Customs port, which might be at some distance from that part of the harbour which the vessel had entered.

I have, &c.

(Sd) LANSDOWNE.

The Right Honourable

SIR HENRY HOLLAND,

&c., &c., &c.

[763.]

[Enclosure No. 1.]

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 25th April, 1887.

The Committee of the Privy Council, on the recommendation of the Minister of Marine and Fisheries, submit for Your Excellency's approval, the annexed Special Instructions to the Officers in command of the Fisheries Protection Vessels.

(Sd.) JOHN J. MCGEE,  
Clerk, Privy Council.

To the Honourable  
THE MINISTER OF MARINE AND FISHERIES.

[Enclosure No. 2.]

DEPARTMENT OF FISHERIES, CANADA,

OTTAWA, 16th April, 1887.

*Special Instructions to Fishery Officers in command of Fisheries' Protection Vessels.*

SIR,—In reference to the letter of this Department, dated 16th March, 1886, I have to intimate to you that during the present season, and until otherwise ordered, you will be guided in the performance of the duties entrusted to you by the instructions contained in that letter.

I have every reason for believing that these have been executed with efficiency and firmness, as well as with discretion, and a due regard to the rights secured by Treaty to foreign fishing vessels resorting to Canadian waters.

I desire, however, to impress upon you that, in carrying out those instructions and protecting Canadian inshore fisheries, you should be most careful not to strain the interpretation of the law in the direction of interference with the rights and privileges remaining to United States' fishermen in Canadian waters under the Convention of 1818. To this end, the largest liberty compatible with the full protection of Canadian interests is to be granted United States' fishing vessels in obtaining in our waters, shelter, repairs, wood and water. Care should be taken that while availing themselves of these privileges, such vessels do not engage in any illegal practices, and all proper supervision necessary to accomplish this object is to be exercised, but it is not deemed necessary that in order to effect this an armed guard should be placed on board, or that any reasonable communication with the shore should be prohibited, after the vessel has duly entered, unless sufficient reasons appear for the exercise of such precautions.

In places where United States' fishing vessels are accustomed to come into Canadian waters for shelter only, the Captain of the Cruiser which may be there is authorized to take entry from and grant clearance to the masters of such fishing vessels without requiring them to go on shore for that purpose. Blank forms of entry and clearance are furnished to the Captains of Cruisers; these, after being filled in, are to be forwarded by the Captain of the Cruiser to the Customs Officer of the ports within whose jurisdiction they have been used. In cases of distress, disaster, need of provisions for the homeward voyage, of sickness or death on board a foreign fishing vessel, all needful facilities are to be granted for relief, and both you and your officers will be carrying out the wishes of the Department in courteously and freely giving assistance in such instances.

The above special instructions, while designed with regard to the fullest recognition of all lawful rights and reasonable liberties to which United States' fishermen are entitled in Cana-

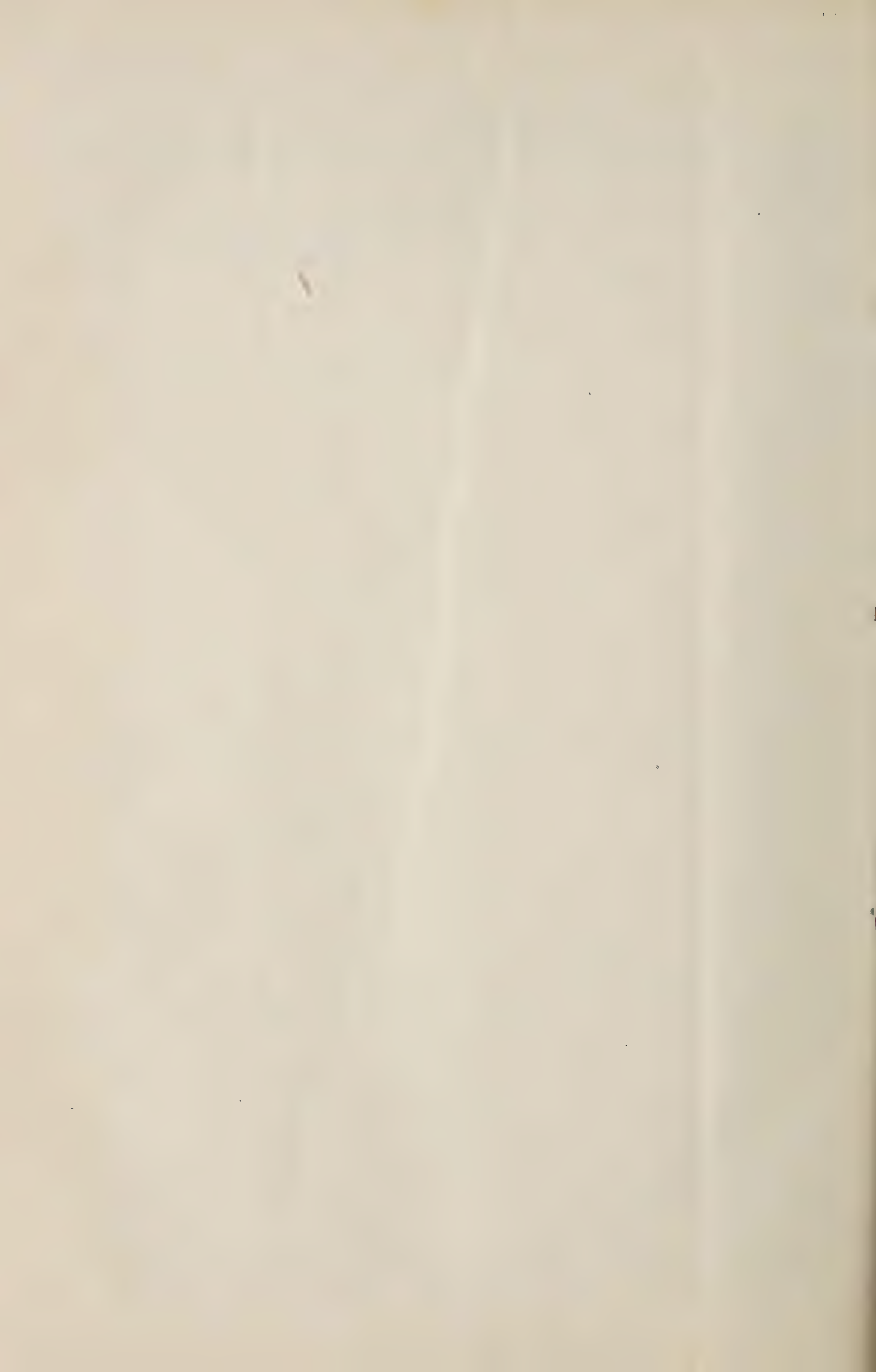
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dian waters, are not to be construed as authorizing a lax enforcement of the provisions of the laws for the protection of the Canadian fisheries. Fishing, preparing to fish, procuring bait, trading or transshipping of cargoes by United States' fishing vessels within the three-mile limit, are manifest violations of the Convention of 1818, and of the Imperial and Canadian Statutes, and in these cases your instructions which are explicit are to be faithfully followed.

I have, &c.,

(Sd.)      GEO. E. FOSTER,  
*Minister of Marine and Fisheries.*

R



Canada - 1886-1888  
(Marquis of Lacedaemon)

## CORRESPONDENCE

(48)

Relative to the Seizure of British American Vessels in Behrings Sea by the United States authorities in 1886.

*The Administrator to Mr. Stanhope.*

HALIFAX, 27th September, 1886.

SIR,—I had the honor to send you a telegraphic message on the 22nd instant, of which the following is the substance:—

The Canadian schooners "Thornton," "Onward" and "Carolina" were seized on the 1st of August in Behrings Sea by the United States cutter "Corwin." The captain and mate of the "Thornton" were tried in the District Court of the United States at Sitka on the 30th of August. It was attempted to show that the "Thornton" was seized for killing seal about 70 miles S.S.E. of St. George Island, within that portion of Behrings Sea ceded by Russia to the United States.

The judge, in charging the jury, quoted Article 1 of the Treaty of March 30th, 1867, between the United States and Russia, and affirmed that all waters within the boundary set forth in the treaty to the western end of the Aleutian Archipelago and Islands were to be deemed American, and that the penalties of the law against the killing of fur-bearing animals were to attach to its violation within the limits in question. The jury were told, if they believed the evidence as to the killing of any fur-bearing animals by the accused on the Alaskan coast or in Behrings Sea east of the 193rd degree of west longitude, to find them guilty.

The prisoners were found guilty. The master of the "Thornton" was fined \$500 and sentenced to imprisonment for thirty days. The mate was fined \$300 and sentenced to thirty days' imprisonment. The officers of the other two vessels were also tried and similar penalties imposed upon them.

The Government of Canada protests against the claim of the United States to the sole sovereignty over Behrings Sea, 700 miles east of the westerly boundary of Alaska, defined by the above-mentioned Article 1 of the Treaty of March 30th, 1867, as contrary to the admitted principles of International Law, and also in opposition to the United States contention concerning common waters on the coast of the Atlantic. It protests, also, against the unwarranted and arbitrary interference of the authorities of the United States with the peaceable and lawful occupation on the high seas of Canadian citizens, as well as against the forfeiture of their property and the indignity of imprisonment which have been imposed upon them. The foregoing facts have also been communicated to Sir Lionel West.

I have, &c.,

Rt. Hon. EDWARD STANHOPE.

A. G. RUSSELL, Administrator.

*The Administrator to Mr. Stanhope.*

HALIFAX, N.S., 27th September, 1886.

SIR,—I have the honor to enclose herewith a copy of an approved Minute of my Privy Council, to which is appended a Report by my Minister of Marine and Fisheries, upon which my telegram of the 22nd instant was founded, relative to the seizures of the Canadian schooners "Thornton," "Onward," and "Carolina," while engaged in the peaceable pursuit of their lawful occupation on the high seas.

2. It will be seen from this Report that the masters and mates of the above-mentioned vessels have been tried before the United States District Court at Sitka, in Alaska, and sentences of imprisonment, in addition to heavy fines imposed upon them, while their property has been subjected to forfeiture.

3. My Ministers are of opinion that the action of the United States authorities with respect to these vessels is indefensible, and that immediate reparation should be demanded from the Government of that country therefor.

4. I have communicated a copy of this Minute and the appended Report to Her Majesty's Minister at Washington.

I have, &c.,

Rt. Hon. EDWARD STANHOPE,  
&c., &c., &c.

A. RUSSELL, *Administrator.*

*CERTIFIED COPY of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Administrator of the Governor in Council on the 24th September, 1886.*

The Committee of the Privy Council have had before them the annexed Report from the Minister of Marine and Fisheries, with reference to the case of the Canadian schooners "Thornton," "Onward" and "Carolina," seized on the 1st of August last by the United States authorities in Behrings Sea.

The Committee concur in the said Report and they advise that the same be carried out.

All which is respectfully submitted for your Excellency's approval.

JOHN J. MCGEE, *Clerk Privy Council, Canada.*

DEPARTMENT OF FISHERIES, CANADA,

OTTAWA, 21st September, 1886.

In reference to a Report of Council under date 23rd September, referring to the case of the Canadian schooners "Thornton," "Onward," and "Carolina," seized on August 1st by the United States authorities in Behrings Sea, the undersigned has the honor to lay before Council the following additional information:

It is stated in effect in the "Alaskan," a newspaper published at Sitka, in the Territory of Alaska, and bearing date 4th September, 1886:—

1. That the master and mate of the schooner "Thornton" were brought for trial before Judge Dawson in the United States District Court at Sitka on the 30th August last.

2. That the evidence given by the officers of the United States revenue cutter "Corwin" attempts to show that the "Thornton" was seized while in Behrings Sea about 60 or 70 miles S.S.E. of St. George Island, for the offence of hunting and killing seals within that part of Behrings Sea which was ceded to the United States by Russia in 1867.

3. That the judge, in his charge to the jury, after quoting the first Article of the Treaty, 30th March, 1867, between Russia and the United States, in which the western boundary of Alaska is defined, goes on to say: "All the waters within the boundaries set forth in this Treaty to the western end of the Aleutian Archipelago and chain of Islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must therefore attach against any violation of law within the limits before described."

"If, therefore, the jury believe from the evidence that the defendants by themselves or in conjunction with others did, on or about the time charged in the information, kill any otter, mink, martin, sable or fur-seal, or other fur-bearing animal or animals, on the shores of Alaska or in the Behrings Sea east of the 193rd degree of west longitude, the jury should find the defendants guilty and assess their punishment separately at a fine not less than \$200 nor more than \$1,000, or imprisonment not more than six months, or by both, such fine within the limits herein set forth and imprisonment."

4. That the jury brought in a verdict of guilty against the prisoners, in accordance with which the master of the "Thornton," Hans Guttormsen, was sentenced to imprisonment for thirty days and to pay a fine of \$500, and the mate of the "Thorn-

ton," Norman, was sentenced to imprisonment for thirty days and to pay a fine of \$300, which terms of imprisonment are presumably now being carried into effect.

It also appears by telegraphic despatch from Nanaimo, British Columbia, dated 18th September, that the masters and mates of the "Onward" and "Carolina" have since been tried and sentenced to undergo similar penalties to those being inflicted on the master and mate of the "Thornton."

It will appear from the above information, conjoined with the Report of Council under date September 23rd inst., that the United States have determined to lay claim to the sole sovereignty of that part of Behrings Sea lying east of the westerly boundary of Alaska, as defined in the first Article of the Treaty made between the United States and Russia in 1867, by which Alaska was ceded to the United States, and which includes a stretch of sea extending in its widest part some 600 or 700 miles easterly from the mainland of Alaska.

In pursuance of this claim they have interfered with the peaceable and lawful occupation of Canadian citizens on the high seas, have taken possession of their ships, have subjected their property to forfeiture, and visited upon their persons the indignity of imprisonment. They appear to have done this in spite of the admitted principles of International Law, and in direct opposition to their own contention of what constitutes common waters upon the Atlantic coast.

In view of the unwarranted and arbitrary action of the United States authorities, the undersigned recommends that a copy of this Report be sent to Her Majesty's Government, to the end that immediate reparation be demanded from the Government of the United States, and that in the meantime the facts contained therein be telegraphed to the Secretary of State for the Colonies and to the British Minister at Washington.

The whole respectfully submitted.

GEORGE E. FOSTER,

*Minister of Marine and Fisheries.*

*The Administrator to Mr. Stanhope.*

HALIFAX, 27th Sept., 1886.

SIR,—I have the honor to forward herewith, for transmission to the Foreign Office, a copy of an approved Report of the Committee of the Privy Council, submitting depositions from some of the officers and men of the Canadian schooners "Onward," "Thornton" and "Carolina," relative to the seizure of those vessels in Behrings Sea by the United States revenue cutter "Corwin," and their subsequent detention at the Port of Ounalaska, in the Territory of Alaska.

2. You will observe from the accompanying papers, that it appears that the schooners mentioned are Canadian vessels, fitted out in Victoria, B.C., for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver Island, Queen Charlotte Islands and Alaska, and that at the time of the seizure by the "Corwin" on the 1st August last, they were taking seals in the open sea at a distance of more than 60 miles from land.

3. My Minister of Marine and Fisheries has taken steps to get further depositions from the owners, masters and crews of the above-mentioned vessels, in order that a claim may be made upon the United States Government for damages, for the unwarranted seizure of British vessels on the high seas.

4. I have communicated a copy of this Order in Council, with the accompanying papers, to Her Majesty's Minister at Washington.

I have, &c.,

A. RUSSELL, *Administrator.*

Rt. Hon. EDWARD STANHOPE.

*CERTIFIED Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Administrator of the Government in Council on the 23rd day of September, 1886.*

*On a Report, dated 18th September, 1886, from the Minister of Marine and Fish-*

eries, submitting the accompanying papers, relative to the seizure of the Canadian schooners "Onward," "Thornton," and "Carolina," in Behrings Sea, by the United States revenue cutter "Corwin," and their subsequent detention at the Port of Ounalaska, in the Territory of Alaska:—

Copy of a letter from James Ogilvie, master of the Canadian sealing schooner "Carolina."

Copy of a letter from Daniel Munroe, master of the Canadian sealing schooner "Onward."

Depositions of John Dallas, seaman on board the "Thornton"; of Thomas McLardy, cook on board the "Carolina"; of Edward Shields, seaman on board the "Carolina"; and of Wm. Munsie, owner of the "Carolina"; all of the Province of British Columbia.

The Minister observes, that from these papers it appears that the schooners mentioned are Canadian vessels, fitted out in Victoria, British Columbia, for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver Island, Queen Charlotte Islands, and Alaska; that, at the time of their seizure by the "Corwin," they were taking seals in the open seas, out of sight of land, the "Carolina" in Lat.  $55^{\circ} 50' N.$ , Long.  $165^{\circ} 53' W.$ , the "Onward" in Lat.  $54^{\circ} 52' N.$ , Long.  $167^{\circ} 55' W.$  and the "Thornton" in about the same latitude and longitude, and all of them at a distance of more than 60 miles from the nearest land; that they were taken possession of by the United States cutter on August 1st, 1886, and towed to the Port of Ounalaska, where they are still detained. The crews of the "Thornton" and "Carolina," with the exception of the captain and one man on each vessel, detained at Ounalaska, were sent by the steamer "St. Paul" to San Francisco, California, and there turned adrift, while the crew of the "Onward" was kept at Ounalaska. At the time of their seizure the "Thornton" had 404 seal skins on board, the "Onward" 900, and the "Carolina" 686, and these are detained and kept at Ounalaska, along with the schooners, by the United States authorities.

The Minister states that he has taken steps to get further depositions from the owners, masters and crews of the vessels above mentioned, in order that a claim may be made upon the United States Government for damages for this unwarranted seizure of British vessels in the open sea.

The Committee recommend that Your Excellency be moved to transmit a copy of this Minute, if approved, together with copies of the papers herein mentioned, to the Right Honorable the Principal Secretary of State for the Colonies, for transmission to the Foreign Office, and also copies to Her Majesty's Minister at Washington.

All of which is respectfully submitted for Your Excellency's approval.

JOHN J. MCGEE, *Clerk Privy Council.*

SCHOONER "CAROLINA," OUNALASKA, 6th August, 1886.

DEAR SIR,—The U.S. steamer "Corwin" boarded and took charge of the schooner in Lat.  $55^{\circ} 50' N.$ , Long.  $168^{\circ} 53' W.$ ; they took all the firearms from the schooner. I asked why they did so; they said for killing female seals and carrying firearms. They towed the "Thornton" and "Onward" in at the same time. I have got 686 seal skins on board; "Thornton," 404; "Onward," 900. I have heard nothing of the "Pathfinder" in the Behrings Sea; she was seen off Sitka, coming up. It was on August 1st at 6 p.m. they took charge of the schooner; canoes and white men will not do; all the schooners that have canoes have got from 9 to 11 canoes. The American schooner "San Diego" is in here; they have taken all her skins and sails on shore, 500 skins. Thirteen days after we left Clayquot we were in the Behrings Sea, we lost the boat from the stern.

August 7th, 1886.

The Company's steamer "St. Paul" will leave to-morrow; the captain of the "San Diego" and all hands are going down in her. I will send this letter by her.

Yours truly,

JAMES OGILVIE.

*Copy of letter from Daniel Munroe, Master of Schooner "Onward."*

SCHOONER "ONWARD," PORT ILIOLUK,  
OUNALASKA, August 7th, 1886.

CHARLES SPRING, Esq., Victoria.

DEAR SIR,—On the 2nd, while the "Onward" was in Lat  $54^{\circ} 52' N.$ , Long  $167^{\circ} 55' W.$ , and about 70 miles from the nearest land, the United States revenue cutter "Corwin," having the schooners "Thornton" and "Carolina" in tow, boarded us and sent a crew on board and towed us in here where we are lying at present with sails bent and seals on board and a watchman in charge, but can't find out what they intend to do with us, so I can't say any more about it at present.

I met the "Favorite" on the 28th. Captain McLean was on board of us; we gave him 508 skins and they had 1,290 they took themselves, making them about 1,800 total, and as we were in sight of each other until the night of the 1st instant he must have made a good catch, for we have 400 skins on board at present that we took in 4 days and I am positive his crowd could take twice that number, as we have not got the best of sealers.

I believe all the schooners did well, and I trust they will get away all right. There is no cutter out at present as there is only two of them up here, one of them up in the Arctic and the other that brought us here is still watching us here.

We may find out to-day how they are going to dispose of us, but I am in hopes they made false steps, and that they can do nothing more than spoil the season.

They took the schooner "San Diego" in here about a month ago, and took the skins out of her and unbent her sails and put everything ashore, and they are sending the crew to San Francisco to-day in one of the Fur Company's steamers "St. Paul."

Later on have heard nothing more only the crew of the "Thornton" and "Carolina" is going to San Francisco to-day in the steamer "St. Paul," except the Captain and one man in each, but they took none of our crew.

There are rumors afloat that the three schooners are to be laid up here all winter, and that we are to be taken to Sitka, but no certainty. I wrote you this morning, as the boat was leaving the wharf, thinking that she was going away, but she came to anchor in the roads and I don't think I finished it. I was afraid of being late. We sent a protest on board the cutter against the action of the authorities in seizing the vessels on the high seas, but I don't know if it will amount to much; there is no Notary Public here to sign it. I have nothing more to write you. Trusting things will turn out better than we expect.

I remain, &c.,

DANIEL MUNROE.

I, John Dallas, of Victoria, British Columbia, seaman, do solemnly and sincerely declare that I was engaged about the end of May, 1886, as a seaman on board the schooner "Thornton" of 22.30 registered tonnage, registered in the Dominion of Canada as a British vessel. I was engaged sealing on the west coast of Vancouver Island, and when the seals got scarce the "Thornton" left Clayakot, Vancouver Island, for Behrings Sea about beginning of June, and three days after passing Unamark Pass we killed our first seal, being then about 250 miles from land; we were engaged sealing in the open sea until the 1st of August. We had a little over 400 skins on board when the United States steamer "Corwin" seized our vessel and took her to Ounalaska; they were about twenty-eight hours engaged in towing us to Ounalaska. The master of the "Corwin" removed all our guns and ammunition, ten guns in all. There were fourteen hands on board the "Thornton" altogether, including two Indians; nine white men and a Chinese cook were sent to San Francisco, and there discharged; two white men and two Indians were left on board the schooner at Ounalaska; we were five or six miles from the "Carolina" at the time we were seized. I saw no other vessels in sight at the time; we were never in sight of land during the whole time we were sealing. And I make this declaration

conscientiously believing the same to be true by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled "An Act for the suppression of voluntary and extra-judicial oaths."

his  
JOHN x DALLAS.  
mark.

Taken and declared before me at Victoria, this 23rd day of August, 1886, the same having been first read over to him.

M. W. TYRWHITT DRAKE, *J.P.*

I, William Munsie, of Victoria, grocer, do solemnly and sincerely declare that I am the sole owner of the schooner "Carolina," and she has a Canadian register, having been registered at the Port of Victoria; the vessel and her outfit at the time she left for Behrings Sea was seven thousand dollars. And I make this solemn declaration conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled: "An Act for the suppression of voluntary and extra judicial oaths."

WM. MUNSIE.

Taken and declared before me at Victoria, this 23rd August, 1886.

M. W. TYRWHITT DRAKE, *J.P.*

I, Thomas McLardy, of Victoria, British Columbia, cook, do solemnly and sincerely declare that I was engaged as cook on board the British schooner "Carolina." I was on board when the United States steamer "Corwin" seized her. During the whole time the said schooner was sealing she never sighted land once. After she was seized the "Corwin" took her in tow, about six o'clock in the evening, and about three o'clock in the morning the English schooner "Onward," of the tonnage 35.20 tons, was also seized and taken in tow to Ounalaska. Her crew were left on board, and not removed to San Francisco. She had seal skins on board. And I make this solemn declaration conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled: "An Act for the suppression of voluntary and extra-judicial oaths."

T. McLARDY.

Taken and declared before me, this 23rd August, 1886, at Victoria, B.C.

M. W. TYRWHITT DRAKE, *J.P.*

I, Edward Shields, of Tooke District, Vancouver Island, a hunter, engaged on board the British schooner "Carolina," of 31.90 registered tonnage, do solemnly and sincerely declare that I left Victoria on board the aforesaid schooner on the 20th May, 1886, bound on a voyage to Behrings Sea for the purpose of sealing. The schooner was fitted out for this purpose; she had eleven hands on board, including the master, by name James Ogilvie. We sailed to Behrings Sea and commenced sealing on the 15th June, and at that time we were about 300 miles from land and we continued cruising about for seals, and up to the time the United States vessel "Corwin" seized us we had 686 seals; during the whole time we were cruising about we were in the open seas out of sight of any land; the seals we obtained were chiefly females; at the time the "Corwin" seized us on the 1st of August we were out of sight of land and in Lat. 55°50' N., long. 168°53' W., as I was informed and verily believe. There were other vessels, both American and English, cruising about in the same neighborhood; we never killed a seal in the neighborhood of the Aleutian Islands. I was away in the boats when the "Corwin" seized the vessel, and when I came back I found the "Carolina" in tow of the "Corwin. The captain of the "Corwin," Abby by name, took away all the firearms, consisting of rifles and shot guns, ten in all, and I was taken to Ounalaska, and from there I was taken to San Francisco by the steamer "St. Paul" and there turned adrift. The "Carolina" was left at Ounalaska with the seals and outfit. And I make this solemn

declaration conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled: "An Act for the suppression of voluntary and extra-judicial oaths."

EDWARD SHIELDS.

Taken and declared before me, at Victoria, this 23rd day of August, 1886, in due form of law.

M. W. TYRWHITT DRAKE, J.P.

*The Administrator to Sir L. West.*

HALIFAX, N.S., 28th September, 1886.

SIR,—I have the honor to forward, for your information, a copy of an approved Report of a Committee of the Privy Council, submitting letters and depositions from some of the masters and crews of the Canadian schooners "Onward," "Thornton," and "Carolina," relative to the seizure of those vessels in Behrings Sea by the United States revenue cutter "Corwin," and their subsequent detention at the Port of Ounalaska, in the Territory of Alaska.

I have communicated a copy of this Order in Council and accompanying papers to the Secretary of State for the Colonies, for transmission to the Foreign Office.

I have, &c.,

Minister at Washington.

A. RUSSELL, *Administrator.*

*The Administrator to Sir L. West.*

HALIFAX, N.S., 28th September, 1886.

SIR,—With reference to my despatch, No. 15, of this day's date, I have the honor to forward, for your information, a copy of an approved Report of a Committee of the Privy Council, to which is appended a Report by my Minister of Marine and Fisheries, upon which my telegram of the 22nd instant was founded relative to the seizure of the Canadian schooners "Thornton," "Onward," and "Carolina," on the 1st August last, by the United States revenue cutter "Corwin," in Behrings Sea.

I have communicated a copy of this Minute of Council, with the annexed Report of the Minister of Marine and Fisheries, to the Secretary of State for the Colonies.

I have, &c.,

Minister at Washington.

A. RUSSELL, *Administrator.*

*Sir L. West to the Administrator.*

WASHINGTON, 4th October, 1886.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's despatches, Nos. 15 and 16, of the 28th ultimo, enclosing copies of approved reports of a Committee of the Privy Council, relative to the seizure of the Canadian schooners "Onward," "Thornton" and "Carolina," by the United States Revenue cutter "Corwin" in Behrings Sea.

I have, &c.,

Lord ALEXANDER RUSSELL.

L. S. SACKVILLE WEST.

*Mr. Stanhope to the Administrator.*

DOWNING STREET, 25th October, 1886.

MY LORD,—With reference to previous correspondence respecting the seizure of Canadian sealing schooners in Behrings Sea, I have the honor to inform you that Her Majesty's Minister at Washington has been instructed by telegraph to protest, in the name of Her Majesty's Government, against this action on the part of the United States cruiser, and to reserve all rights to compensation.

I enclose, for communication to your Government, a copy of a despatch with its enclosure, which has been received at the Foreign Office from Sir L. West on the subject.

I have, &c.,

EDWARD STANHOPE.

The Officer Administering the Government of Canada.

*Sir L. West to Lord Iddesleigh.*

WASHINGTON, 21st September, 1886.

MY LORD,—The reported seizure of British vessels by American cruisers in waters over which it appears the United States Government claim jurisdiction, as adjacent to the Territory of Alaska, has given rise to much comment in the newspapers touching the interests of a powerful commercial company which may be affected by the international questions arising therefrom, and in this connection I have the honor to enclose to your Lordship, herewith, a précis of the history of the origin of this company, as well as of what has been written on the subject.

Chapter three of the Revised Statutes of the United States (p. 342, Secs. 1954 to 1976 inclusive) contains the "provisions relating to the unorganized Territory of "Alaska," and Sec. 1954 extends "the laws of the United States to and over all the "mainland, islands and water of the Territory" ceded by Russia to the United States by the Treaty of 1867.

In addition to the case of the Government Seal Islands, the Alaska Company holds as well, leases of certain islands from the Russian Government, so that, in fact, it may be said to monopolise the seal fur in these waters.

I have, &c.,

L. S. SACKVILLE WEST.

The EARL OF IDDESLEIGH, G.C.B., &c., &c., &c.

#### HISTORY OF THE ORIGIN OF THE ALASKA COMMERCIAL COMPANY.

The transfer of the Territory of Alaska to the United States Government, in compliance with the terms of the treaty of purchase between the two Governments, included the transfer of all the Russian Government (property), such as public buildings at Sitka, Governor's house, Custom house, hospital and wharves, &c. There were, however, certain buildings reserved as the property of the Russian Fur Company, and as General Rousseau, the United States Commissioner, could not, in his official capacity, take any active or open part in its disposal, Prince Matsukoff, the Russian Governor, concluded a bargain with Mr. Hutchinson, who accompanied General Rousseau as his private secretary. This bargain included all the property of the Russian Fur Company and the American officers stationed at Sitka, who claimed that they were entitled to a share of the spoils. By virtue of this bargain with Prince Matsukoff, who was Governor of the company, Mr. Hutchinson proposed to take possession of the fur trade of Alaska and the seal islands, (and) left for Victoria (British Columbia) and San Francisco to make the necessary arrangements.

At the former place he met with a Mr. Kohl, owner of a British steamer called the "Fidelitor," with whom he entered into partnership, and the firm still exists under the name of Hutchinson, Kohl & Co.

The steamer obtained an American register, under the plea that she was a Russian vessel at the time of the transfer of the territory to the United States, and was thus enabled to carry on the coasting trade.

Preparations were made in 1868 for working the fur trade of the newly-acquired possession, and especially for the occupation of the Pribylor Island, to which, by virtue of the arrangements with Prince Matsukoff, the new company considered they had an exclusive right. Upon their arrival there, however, they found them occupied by experienced sealers from New London and Stonington (Connecticut), under one Captain Morgan. A fight for possession seemed imminent, but a division of the season's catch was finally agreed upon. While the two parties were thus amicably at work, Mr. Pflugel, Russian Vice-Consul at Honolulu, arrived at the head of an expedition believing that he should find the islands unoccupied, but was eventually forced to retire before the combined forces of Captain Morgan and Mr. Hutchinson.

It now became obvious that the Government must take means to preserve these valuable seal rookeries, and in the winter of 1868 an Act of Congress was passed, the conditions for permission to take seals being, however, reserved for future Congressional action. The coalition between Hutchinson and Morgan still continued, and

finally led to the organization of the powerful and wealthy Alaska Commercial Company. Since 1870 this company has controlled the entire fur trade of Alaska, and by virtue of its alliances with the lessees of the Russian seal islands controls the valuable fur seal trade of the world. With strong political influence in the Congress of 1876 it obtained a lease of the Pribylor Islands for twenty years, at a rental of \$55,000 a year and a royalty of \$2.62 per skin, the take to be limited to 100,000 skins a year. It is calculated that the company pays annually \$315,000 to the United States treasury which, after paying all the expenses of the territory, yields more than 4 per cent. per annum on the purchase money paid to Russia for Alaska.

To preserve this revenue through future years, the protection of the seals from illegal capture or disturbance on their annual visits to the islands, has been deemed an absolute necessity, and hence the prohibition against approaching or landing on the islands, and the vigilance of the United States cruisers in the Behrings Sea. It is not, however, generally understood that the Alaska Company controls the fur trade of all the mainland and islands of Alaska lying west of the 141st meridian of west longitude, and that its operations over this vast extent of territory and coast are entirely distinct from and have no connection with its exclusive control of the seal islands, which it holds by virtue of its lease from the United States Government.

Outside of these islands it holds no exclusive rights or franchise from the Government, nor does it pay any rent or royalty to the Government or the territory it occupies or the furs it procures from the natives. It has no rights over any other citizen or company of citizens who may desire to trade in competition with it, and yet it has been aided by the revenue marine in suppressing competition from rival traders, for it appears that under instructions from the Treasury Department the revenue cruisers board and examine every trading vessel sighted in the Behring Sea or on the north-west coast of Alaska, except the vessels of the company. If a pretext can be found an officer is placed on board with instructions to take the vessel to Ounalaska and discharge her cargo. She is then sent to San Francisco, where the United States Marshal finds that there is no cause for condemnation, and as the object of breaking up her voyage has been gained, she is released, and restored to her owners. The vessels subjected to this treatment come from British Columbia and Japan, and are, it is said, fitted out for contraband trade.

WASHINGTON, September, 1886.

*Lord Lansdowne to Mr. Stanhope.*

(Telegram to the Secretary of State for the Colonies on the 27th November, 1886.)

Vessels are now being equipped in British Columbia for fishing in Behrings Sea, and intend to start about the 10th of December. Can you obtain any assurance as to whether the vessels will be exposed to seizure by United States cruisers? They do not intend to fish near land.

LANSDOWNE.

*Lord Lansdowne to Mr. Stanhope.*

OTTAWA, 29th November, 1886.

SIR,—I have the honor to enclose herewith copy of an approved report of my Privy Council, dealing with the recent seizure of the Canadian schooners "Carolina," "Onward" and "Thornton," by the United States revenue steamer "Corwin," while fishing for seals in Behrings Sea.

The statements contained in the report are sufficient to establish that the claim now put forward on the part of the United States, to the sole right of taking furbearing animals within the limits laid down in the first article of the Treaty of 1867, is inconsistent with the rights secured to Great Britain under the Convention of 1825, and is in substance the same as that which, when advanced by the Russian Government on different occasions prior to the cession of Alaska by Russia to the United States, was either strenuously resisted or treated with ridicule and contempt by the Government of the latter power.

It is impossible to believe that when, by the Convention of 1825, it was agreed that the subjects of Great Britain, as one of the contracting parties, should not be "troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same, or in fishing therein," any reservation was intended with regard to that part of the Pacific Ocean known as Behrings Sea. The whole course of the negotiations by which this Convention and that between Russia and the United States, of the same year, were preceded—negotiations which, as pointed out in the report, arose out of conflicting claims to these very waters—points to the contrary conclusion. It would, indeed, be difficult to condemn the present pretensions of the United States authorities in language more convincing or emphatic than that which, while those negotiations were in progress, was used by Mr. Middleton, then Russian Minister at St. Petersburg, in his memo., dated 13th December, 1823. [*Vide* American State Papers, Foreign Relations. Vol. V, No. 384.]

It is laid down in that memorandum that, "the existence of territorial rights to the distance of 100 miles from the coasts upon two opposite continents, and the prohibition of approaching to the same distance from these coasts, or from those of all the intervening islands, are innovations in the law of nations and measures unexampled. It must thus be imagined that this prohibition bearing the pains of confiscation applies to a long line of coasts with the intermediate islands situate in the vast seas where the navigation is subject to innumerable and unknown difficulties, and where the chief employment, which is the whale fishery, cannot be compatible with a regulated and well determined course." Mr. Middleton added "that:—Universal usage, which has obtained the force of law, has established for all the coasts an accessory limit of a moderate distance which is sufficient for the security of the country and for the commerce of its inhabitants, but which lays no restraint upon the universal rights of nations, nor upon the freedom of commerce and navigation."

Under the Treaty of 1867 Russia ceded to the United States "all the rights, franchises and privileges" then belonging to her in the territory or dominion included within the limits described (*vide* Art. VI), but could not cede a right, which, in the express terms of the Treaty of 1825, was recognized as belonging to the subjects of the British Crown as well as to those of Russia.

This is, as far as I have been able to ascertain the first occasion upon which claims of the kind now advanced have been enforced. Sealing vessels from British Columbia have for some years past frequented the waters of Behrings Sea without molestation, and a letter, of which I enclose a copy, addressed by Mr. William Munzie, of Victoria, B.C., to my Minister of Marine and Fisheries, shows how serious will be the effects of this interference upon a well-established and important industry, in which many British subjects have a substantial interest.

It is, I think, worth while to contrast the claims now urged by the Government of the United States to exclusive control over a part of the Pacific Ocean, the distance between the shores of which is, as was pointed out by Mr. Adams in 1822, not less than 4,000 miles, with the indignant remonstrances recently made by Mr. Bayard against the action of the Canadian authorities in warning United States fishing vessels from entering the territorial waters of the Dominion at points where those waters were only a few miles in width, and throughout their whole extent in close proximity to Canadian territory.

A warning of this kind when given in respect of the Bay des Chaleurs, which measures about eighteen miles at its mouth, was stigmatized by Mr. Bayard in his despatch of 14th June, 1886, as a "wholly unwarranted pretension of extra territorial authority," and as an "interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within three marine miles of the shores."

I would also draw your attention especially to the great hardships occasioned to the owners and crews of the seized vessels, by the confiscation of their catch, and by the imprisonment of some of the persons on board of them.

I understand that owing to the amount of the fines imposed, which were so

heavy that the owners have declined to pay them, the captains and mates of the seized vessels, though originally sentenced to thirty days' imprisonment (a term which has long since expired), are still detained.

I may add, in explanation of the concluding passage in Mr. Munsie's letter, that Mr. Ogilvie, the captain of the "Carolina," while waiting at Ounalaska for the trial of his vessel, wandered off into the woods, in which it appears, from Mr. Munsie's statement, that he must have perished.

LANSDOWNE.

The Right Honorable EDWARD STANHOPE, &c.

*CERTIFIED Copy of a Report of a Committee of the Honorable the Privy Council for Canada, approved by His Excellency the Governor General in Council on the 29th November, 1886.*

The Committee of the Privy Council have had under consideration a communication from Mr. E. C. Baker, M.P., President of the British Columbia Board of Trade, transmitting a letter from Mr. Theodore Lubbe, the managing owner of the British Columbia sealing fleet, asking information as to the United States claim to the easterly half of Behrings Sea as American waters. And also a despatch, dated 26th August last, from the Lieut.-Governor of British Columbia, advising of the seizure of the Canadian schooners "Carolina" and "Thornton," by the United States revenue steamer "Corwin," while engaged in sealing in Behrings Sea. Also copy of a letter from Daniel Munroe, master of the Canadian sealing schooner "Onward," which has been already forwarded by His Excellency the Governor General to the Colonial Office and to Her Majesty's Minister at Washington.

The Sub-Committee of Council to whom the papers were referred, observes that it appears that the schooners mentioned were Canadian vessels fitted out for the capture of seals in the North Pacific Ocean adjacent to Vancouver Island, Queen Charlotte Island and Alaska, that they were peaceably pursuing their avocations on the high seas at a distance of some 70 miles from the nearest Island, and more than one hundred miles from the nearest mainland, that they were taken possession of by the United States revenue cutter "Corwin" on the first of August last and towed to the port of Ounalaska.

The crews of the "Thornton" and "Carolina" (with the exception of the captain and one man on each vessel, who were detained at Ounalaska) were sent by steamer to San Francisco and there turned adrift, while the men of the "Onward" were kept at Ounalaska. The schooners and the seals found on board of them were also detained by the United States authorities.

The authority under which these seizures were made is apparently:—(1.) A letter of instruction from the Acting Secretary of the Treasury of the United States to Mr. D'Ancona, the Collector of Customs at San Francisco, dated 12th March, 1881, with enclosures ("A" of the appendix). (2.) A letter from the Secretary of the United States Treasury to the Collector of Customs at San Francisco, dated 16th March, 1886, confirming the instructions given to Mr. D'Ancona in 1881, and ordering publication of the same ("B" of appendix). (3.) The Revised Statutes of the United States, the 1596th section of which prohibits the killing of fur bearing animals within the limits of Alaska Territory, or in the waters thereof, and the Sections 1960 and 1961 of which prohibit the killing of male seal, except at certain times, and under certain restrictions, and of female seals at any time, upon the Islands of St. Paul and St. George, or in the waters adjacent thereto.

The master and mate of the schooner "Thornton" were subsequently (13th August last) brought for trial before Judge Dawson, in the United States district court at Sitka.

The evidence given by the officers of the United States revenue cutter "Corwin" was to the effect that the "Thornton" was seized while in Behrings Sea, about 60 or 70 miles S.S.E. of St. George Island, for the offence of hunting and killing seals within that part of Behrings Sea which was ceded to the United States by Russia in 1867. The judge in his charge to the jury quoted the first article of the treaty of the 30th

March, 1867, between Russia and the United States, in which the boundary of Alaska is defined as follows:—

“The western limit, within which the territories and dominions conveyed are contained, passes through a point in Behrings Straits, on the parallel of sixty-five degrees, thirty minutes north latitude, at its intersection by the meridian, which passes midway between the Island of Krusenstern or Ggnalook and the Island of Ratmanoff or Noonarbrook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds then in a straight course, nearly south-west, through Behrings Straits and Behrings Sea so as to pass midway between the north-west point of the Island of St. Lawrence and the south-east point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence from the intersection of that meridian in a south-westerly direction, so as to pass midway between the Island of Otton and the Copper Island of the Kormandorski Couplet or group, in the North Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.” Executive Documents, 2nd Session 40th Congress, vol. 13, Document 177.

The judge is reported to have gone on to say:—

“All the waters within the boundary set forth in this treaty to the western end of the Aleutian Archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must therefore attach against any violation of law within the limits before described.

“If therefore the jury believe from the evidence that the defendants did by themselves or in conjunction with others, on or about the time charged in the information, kill any otter, mink, martin, sable or fur seal, or other fur bearing animal or animals, on the shores of Alaska, or in the Behrings Sea, east of the one hundred and ninety third degree of west longitude, the jury should find the defendants guilty, and assess their punishment separately, at a fine of not less than \$200 nor more than \$1,000 or imprisonment not more than six months, or by both, such fines within the limits herein set forth, and imprisonment.”

The jury found the prisoners guilty and the master of the “Thornton” was sentenced to 30 days’ imprisonment and to pay a fine of \$500 while the mate was sentenced to a like term of imprisonment and to pay a fine of \$300. It appears from a telegraphic despatch of the 18th of September last, that the masters and mates of the “Onward” and “Carolina” have since also been tried, and sentenced to undergo penalties similar to those inflicted on the master and mate of the “Thornton.”

The Sub-Committee do not here propose to comment on the enlarged construction placed by Judge Dawson on the words “adjacent waters” in the clauses of the Revised Statutes above referred to, further than to remark in passing that its effects would be to convert a purely municipal prohibition into an international obligation, and to claim for the United States a jurisdiction which their Government have in the past not only declined themselves to assert, but which they have strenuously resisted when claimed by another power.

The following brief instance will illustrate the position taken by the United States Government in the recent past:—

As late as the 19th April, 1872, Mr. Boutwell, then Secretary of the United States Treasury, in answer to a request made to him that a revenue cutter should be sent to the region of the Unimak Pass to prevent Australian and Hawaiian vessels from taking seals on their annual migration to the Islands of St. Paul and St. George, declined to accede to the request and added:

“In addition I do not see that the United States would have jurisdiction or power to drive off parties going up there for that purpose unless they made such attempts within a marine league of the shore.”

Going further back in date the Sub-Committee find that in 1822 a claim to sovereignty over the Pacific Ocean north of the 51st degree of latitude was put forward

by Russia. An imperial Ukase issued on the 4—16 September, 1821, regulating commerce, whaling and fishing along the eastern coast of Siberia, the north western coast of North America, and the Aleutian and other islands, and prohibiting all foreign vessels from landing on the coast and islands belonging to Russia, or approaching them within less than 100 Italian miles, was communicated to the American Government on the 11th February, 1822 ("C" of appendix).

The Honorable John Quincy Adams, at that time United States Secretary of State, wrote on the 25th of the same month to M. de Poletica, the Russian Minister Plenipotentiary, expressing the surprise of the President of the United States at the assertion of a territorial claim by Russia extending to the 51st degree of north latitude on this continent; stating that the exclusion of American vessels from the shore beyond the ordinary distance to which the territorial jurisdiction extends had excited still greater surprise and requesting an explanation of the grounds of right, upon principles generally recognized by the laws and usages of nations, which could warrant such claims.

M. de Poletica, in a despatch dated 16—28 February, 1822, defends the prohibition as designed to suppress the furnishing by foreigners of arms and ammunition to the natives of Russian America. He adds, however :—

"The extent of sea of which these possessions form the limits, comprehends all the conditions which are ordinarily attached to shut seas (*mers fermées*), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities."

Mr. Adams deemed it a sufficient answer to this claim to point out the fact that, "the distance from shore to shore on this sea, in latitude 51 north, is not less than 90° of longitude, or 4,000 miles. (State Papers, Vol. 9, p. 471 *et seq.*)

A writer in the *North American Review*, in an article published a few months later, says with respect to Mr. Adams' answer: "A volume on the subject could not have placed the absurdity of the pretensions more glaringly before us." (*North American Review*, Vol. 15, p. 389.)

The position was relinquished by Russia after much negotiation and correspondence (see American State Papers, foreign relations, Vol. 5, p. 432) and on the 17th of April, 1824, a convention was concluded between the United States and that country, which was ratified at Washington on the 12th January, 1825, and of which the 1st article is as follows:—1. "It is agreed that in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts upon points which may not already have been occupied for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles." (*State Papers*, Vol. 12, p. 595.) The conditions and restrictions relate chiefly to the prevention of illicit trade in spirituous liquors, firearms, &c.

Negotiations between Great Britain and Russia on the subject of the same Ukase and the prohibition above referred to, resulted in a treaty between the two powers, concluded on 28th February, 1825, and containing the following provision, in which the right of fishing and navigation by Great Britain in any part of the Pacific Ocean is recognized :—

"It is agreed that the respective subjects of the high contracting parties shall not be troubled or molested in any part of the ocean commonly called the Pacific Ocean; either in navigating the same, in fishing therein or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives under the restrictions and conditions specified in the following articles." (*State Papers*, vol. 12, p. 38.)

So far as the Sub-Committee are aware the claim was never revived until it is now for the first time put forward by the United States.

It does not appear necessary to insist at any great length that the conditions

attaching to *Maria clausa* cannot by any possibility be predicated of Behring Sea, and that the seizure of Canadian vessels at a distance of over 100 miles from the mainland, and 70 miles from the nearest island, constitutes a high-handed extension of maritime jurisdiction unprecedented in the law of nations; but the Sub-Committee cannot conclude without inviting the earnest attention of Her Majesty's Government to the fact that Canadian citizens, seized while engaged in the pursuit of their lawful avocation upon the high seas, and more than 70 miles from the nearest land, have been dragged before a foreign court, their property confiscated and themselves thrown into prison, where they still remain.

The Sub-Committee express their confident hope that such representations will be at once made to the United States Government as will secure the immediate release of the imprisoned men, and full reparation for all losses and damage sustained by them.

The Committee concur in the foregoing report, and they advise that Your Excellency be moved to transmit a copy of this minute, if approved, to the Right Hon. the Secretary of State for the Colonies, and to Her Majesty's Minister at Washington.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. MCGEE, *Clerk Privy Council.*

#### INDEX TO APPENDIX.

- A.—Letter from the Acting Secretary United States Treasury Department, to Mr. D'Ancona, the Collector of Customs at San Francisco, dated 12th March, 1881.
- B.—A letter from the Secretary of the United States Treasury Department to the Collector of Customs at San Francisco, dated 16th March, 1886.
- C.—Edict of His Imperial Majesty, Autocrat of all the Russias, dated 4th September, 1886.

#### APPENDIX A.

TREASURY DEPARTMENT, 12th March, 1881.

D. A. D'ANCONA, 717 O'Farrell street, San Francisco, Cal.

SIR,—Your letter of the 19th ult., requesting certain information in regard to the meaning placed by this Department upon the law regulating the killing of fur-bearing animals in the Territory of Alaska, was duly received.

The law prohibits the killing of any fur-bearing animals, except as therein otherwise provided, within the limits of Alaska Territory, or in the waters thereof, and also prohibits the killing of any fur seals on the islands of St. Paul and St. George, or in the waters adjacent thereto, except during certain months.

You enquire in regard to the interpretation of the terms "waters thereof" and "waters adjacent thereto" as used in the law, and how far the jurisdiction of the United States is to be understood as extending.

Presuming your enquiry to relate more especially to the waters of Western Alaska, you are informed that the Treaty with Russia, of 30th March, 1870, by which the Territory of Alaska was ceded to the United States, defines the boundary of the territory so ceded. The treaty is found on pages 671 to 673 of the volume of Treaties of the Revised Statutes. It will be seen, therefore, that the limit of the cession extends from a line starting from the Arctic Ocean and running through Behrings Straits to the north of the St. Lawrence Islands.

The line runs thence in a south-westerly direction, so as to pass midway between the Island of Attan and Copper Island, of the Kormandorski Couplet or Group, in the North Pacific Ocean, to meridian of 173 degrees, west longitude. All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands, are considered as comprised within the waters of Alaska Territory.

All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law, within the limits before described.

Very respectfully,

H. F. FRENCH, *Acting Secretary.*

## APPENDIX B.

TREASURY DEPARTMENT, 16th March, 1886.

SIR,—I transmit herewith for your information a copy of a letter addressed by the Department on 12th March, 1881, to D. A. D'Ancona, concerning the jurisdiction of the United States in the waters of the Territory of Alaska, and the prevention of the killing of fur-seals and other fur-bearing animals within such areas, as prescribed by chapter 3, title 23, of the Revised Statutes. The attention of your predecessor in office was called to this subject on 4th April, 1881. This communication is addressed to you, inasmuch as it is understood that certain parties at your port contemplate the fitting out of expeditions to kill fur-seals in these waters. You are requested to give due publicity to such letters, in order that such parties may be informed of the construction placed by this Department on the provisions of law referred to.

D. MANNING, *Secretary*.

Collector of Customs of San Francisco.

## APPENDIX C.

*Edict of His Imperial Majesty, Autocrat of all the Russias.*

The Directing Senate maketh known unto all men: Whereas, in an edict of His Imperial Majesty, issued to the Directing Senate on the 4th day of September, and signed by His Imperial Majesty's own hand, it is thus expressed:

"Observing from reports submitted to us, that the trade of our subjects on the Aleutian Islands and on the north-west coast of America appertaining unto Russia is subjected, because of illicit and secret traffic, to oppression and impediments; and finding that the principal cause of these difficulties is the want of rules establishing the boundaries for navigation along these coasts, and the order of naval communication, as well in these places as on the whole of the eastern coast of Siberia and the Kurile Islands, we have deemed it necessary to determine these communications by specific regulations which are hereto attached.

"In forwarding these regulations to the Directing Senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution.

(Countersigned) COUNT D. GURIEF, *Minister of Finances*.

"It is therefore decreed by the Directing Senate, that His Imperial Majesty's Edict, be published for the information of all men, and that the same be obeyed by all whom it may concern."

The original is signed by the Directing Senate.

On the original is written in the handwriting of His Imperial Majesty, thus:  
Be it accordingly,

ALEXANDER.

"Sec. 1. The pursuits of commerce, whaling and fishery, and of all other industry, on all islands, ports and gulfs, including the whole of the north-west coast of America, beginning from Behrings Straits, to the 51st of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands, from Behrings Straits to the south cape of the Island of Urup, viz., to the 45—50 northern latitude, is exclusively granted to Russian subjects.

"Sec. 2. It is therefore prohibited to all foreign vessels, not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than a hundred Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo."

OTTAWA, 9th April, 1886.

SIR,—I have the honor to transmit herewith a letter just received from Mr. Theodore Lubbe, the managing owner of our British Columbia sealing fleet, and dated 30th ult.; the newspaper clipping attached thereto fully explains the matter embodied therein, and as will be at once seen, it is a matter of vital importance to our

fishing industry and commercial enterprises generally, that the same should engage the attention of the Government at the very earliest possible moment, in order that the owners may be apprised with as little delay as possible how they are to act.

I would therefore respectfully urge that the whole subject be referred to His Excellency the Governor General in Council, so that I may be informed as quickly as is reasonably possible what reply to telegraph; should this mode of procedure be irregular or undesirable, then I would most respectfully ask that such other steps be taken in the premises as to you may appear necessary or expedient so as to avert trouble in the closely approaching season alluded to, and remove all doubt as to the rights of the parties on the "high seas" or otherwise as may appear to be reasonably consistent.

I have the honor to be, Sir, your most obedient servant,

EDGAR CROW BAKER, M. P., *Vice-Pres. B. C. Board of Trade.*  
To the Honorable the Secretary of State.

VICTORIA, BRITISH COLUMBIA, 30th March, 1886.

DEAR SIR,—The enclosed clipping explains itself.

The question I wish to ask you is: Can the United States claim the easterly half of Behring Sea as "American Waters?"

The British schooners "Mary Ellen, Favorite, Onward, Gracia, Dolphin, Ann Beck, Wm. P. Sayward, Mary Taylor, Caroline, Alfred Adams and Active" intend to follow the seals into Behrings Sea at the end of the seal fishing season, off the British Columbia coast—say 20th May next. These schooners would spear and shoot seals upon the high seas, and have no occasion to go within thirty miles of any land. You are aware that the British schooner "Mary Ellen" has already made two successful voyages to Behrings Sea, the "Favorite" made also a successful voyage during 1885. Both these vessels were spoken by an American revenue cutter in Behrings Sea last summer, but not in any way molested.

Would it not be well for you to obtain from the Minister of Marine in Ottawa, a written opinion, and further, would you be good enough to communicate to me the substance of such opinion by wire?

Please act promptly and oblige.

Yours truly,

T. LUBBE.

Mr. EDGAR CROW BAKER, M.P., Ottawa.

The letter referred to in my letter dated 9th April, 1886.

EDGAR CROW BAKER, M.P.

#### WARNING TO SEAL HUNTERS.

The Treasury Department having become informed that certain parties are fitting out expeditions for the purpose of killing fur seals and other fur-bearing animals in Alaskan waters, gives the following information to parties concerned as to how far the jurisdiction of the United States extends in the matter:

The Treaty with Russia, of 30th March, 1870, by which the Territory of Alaska was ceded to the United States, defines the boundary of the territory so ceded. It will be seen therefrom that the limit of cession extends from a line starting from the Arctic Ocean and running through Behrings Strait to the north of St. Lawrence Islands. The line runs thence in a south-westerly direction, so as to pass midway between the Island of Atton and Copper Island of the Kromandorski Couplet or Group, in the North Pacific Ocean, to meridian 193 degrees west longitude. All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands are considered as comprised within the waters of Alaska Territory. All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits prescribed.

VICTORIA, B. C., 2nd April, 1886.

DEAR SIR,—The enclosed clipping is upon the same subject but more fully than the one sent you 30th ult.

Please attend to this matter promptly.

With regards,

Mr. EDGAR CROW BAKER, M. P., Ottawa.

T. LUBBE.

The "Alaska Commercial Company" is evidently pulling the wires.—T. L.

#### ALASKA SEAL CATCHING.

The story goes that some poachers were fitting out in this port to kill seals on the federal preserves in Alaskan waters. To warn all such parties, Secretary Manning addressed the following note to Collector Hager :

TREASURY DEPARTMENT, 6th March, 1886.

SIR,—I transmit herewith for your information a copy of a letter addressed by the Department on the 12th March 1881, to D. A. D'Ancona concerning the jurisdiction of the United States in the waters of the territory of Alaska and the prevention of the killing of fur-seals and other fur-bearing animals within such areas as prescribed by chapter 3rd, title 23 of the Revised Statutes. The attention of your predecessor in office was called to this subject on the 4th April, 1881. This communication is addressed to you, inasmuch as it is understood that certain parties at your port contemplate the fitting out of expeditions to kill fur-seals in these waters. You are requested to give due publicity to such letters, in order that such parties may be informed of the construction placed by this Department upon the provision of law referred to.

Respectfully yours,

Collector of Customs, San Francisco.

D. MANNING, *Secretary*.

Upon reference to back files we find the full explanation of this note in the letter referred to which is as follows :—

TREASURY DEPARTMENT, 12th March, 1881.

SIR,—Your letter of the 19th ult., requesting certain information in regard to the meaning placed by this Department upon the law regulating the killing of fur-bearing animals in the Territory of Alaska, was duly received.

The law prohibits the killing of any fur-bearing animals, except as otherwise therein provided within the limits of Alaska Territory, or in the waters thereof, and also prohibits the killing of any fur-seals on the islands of St. Paul and St. George, or in the waters adjacent thereto, except during certain months.

You enquire in regard to the interpretation of the terms "waters thereof" and "waters adjacent thereto," as used in the law, and how far the jurisdiction of the United States is to be understood as extending.

Presuming your enquiry to relate more especially to the waters of Western Alaska, you are informed that the treaty with Russia, of 30th March, 1870, by which the Territory of Alaska was ceded to the United States, defines the boundary of the territory so ceded. This treaty is found on pages 671 to 673 of the volume of treaties of the Revised Statutes. It will be seen, therefore, that the limit of the cession extends from a line starting from the Arctic Ocean, and running through Behrings Strait to the north of St. Lawrence Islands.

The line runs thence in a south-westerly direction, so as to pass midway between the Island of Atton and Copper Island, of the Kormansdorski Couplet or Group, in the North Pacific Ocean, to meridian of 173 degrees west longitude. All the waters within that boundary, to the western end of the Aleutian Archipelago and chain of islands, are considered as comprised within the waters of Alaska Territory. All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits before described.

Very respectfully,

H. F. FRENCH, *Acting Secretary*.

D. A. D'Ancona, 717 O'Farrell St., San Francisco, California.

All parties are warned that the rule laid down by the Secretary of the Treasury of the United States, in 1881, and reaffirmed in the note of Secretary Manning to the collector of this port of date of 16th March, 1886, will be rigidly enforced against all who attempt to poach upon the federal preserve by killing seals within its limits, there laid down and defined in the waters of Alaska. From that preserve the federal Government derives its revenue, and its lessee is entitled to the protection proffered by the note of the Secretary referred to.

#### CONTRABAND SEAL HUNTING.

Noticing in your issue of the "Call" of the 25th instant, an article referring to the Alaska Fur Company's territory, to oblige a number of your subscribers, will you kindly inform us if a vessel hunting seal a marine league off shore in Behrings Sea would be liable to seizure, or does the marine league limit apply to that territory as it does to all land in the high seas?

#### SEVERAL INTERESTED SUBSCRIBERS.

Section 1956, Revised Statutes of the United States, prohibits the killing of fur-bearing animals within the limits of Alaska Territory or the waters thereof, except under an authorization from the Secretary of the Treasury, and it further provides that the Secretary shall not grant any special privileges under this section. Then comes the enquiry: What is included in the term "the waters thereof?"

The treaty by which Alaska was ceded to the United States by Russia defines the boundaries of the jurisdiction thus conveyed. The western limit which extends out on the high seas (a questionable conveyance) as far as the meridian of 193° west longitude, so as to include the whole of the Aleutian Archipelago, and thence proceeds north-west to the intersection of the meridian 172° W., with the parallel of 65° 30' N., passes through the middle of Behrings Strait, midway between the islands of Krusenstern, or Ignalook and Rotmanoff, and thence due north without limitation into the Frozen Ocean. By Act of Congress the laws of the United States are extended over all this territory and water. As Behrings Strait, at its narrowest, is 36 miles wide, 9 miles from the Alaskan mainland coast, would not begin to reach the western limit of our purchase from Russia, and until the right of the United States Government to exclusive jurisdiction over those waters is successfully controverted, you must not violate the law of Congress by killing seals therein, without the consent of the Secretary of the Treasury, on peril of confiscation. According to the current of modern authority, says Chancellor Kent, the general territorial jurisdiction extends into the sea as far as a cannon shot will reach, and no farther, and this is generally calculated to be a marine league (three miles); and the Congress of the United States has recognized this limitation. The claim of Russia to sovereignty over the Pacific Ocean north of the 51st° of latitude, as a close sea, was considered by our Government in 1822 as being against the rights of other nations; but now as we have bought Russia out, it is all right. One's opinions change according to one's standpoint, and besides, cannons shoot farther now than they used to.

VICTORIA, B.C., 12th April, 1886.

DEAR SIR,—Please see fol. 10 and 11 of the enclosed document.

Yours truly,

Mr. EDGAR CROW BAKER, House of Commons, Ottawa.

T. LUBBE.

Charles Edward Pooley, a Public Notary in and for the Province of British Columbia duly commissioned and sworn, residing and practising in the city of Victoria, in the said Province, do hereby certify that the annexed paper writings are full, true and correct copies of the sworn copy sworn to be a correct copy by John T. Fogarty, at the city of San Francisco, in the State of California, on the 23rd day of December, 1885, before John E. Hamill, Notary Public.

In testimony whereof I have hereunto set my hand and seal of office at the city of Victoria aforesaid, the 12th day of April, 1886.

CHARLES E. POOLEY, *Notary Public, Victoria, B.C.*

## PUBLIC No. 120.

## AN ACT TO PREVENT THE EXTERMINATION OF FUR-BEARING ANIMALS IN ALASKA.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that it shall be unlawful to kill any fur-seal upon the Islands of St. Paul and St. George, or in the waters adjacent thereto, except during the months of June, July, September and October in each year, and it shall be unlawful to kill such seals at any time by the use of fire-arms, or use other means tending to drive the seals away from said islands. Provided that the natives of said islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing and for the manufacture of boats for their own use, which killing shall be limited and controlled by such regulations as shall be prescribed by the Secretary of the Treasury.

Sec. 2. And be it further enacted, that it shall be unlawful to kill any female seal, or any seal less than one year old, at any season of the year, except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to said islands, or on the beaches, cliffs or rocks where they haul up from the sea to remain; and any person who shall violate either of the provisions of this or the 1st section of this Act shall be punished, on conviction thereof, for such offence by a fine of not less than two hundred dollars, nor more than one thousand dollars, or by imprisonment not exceeding six months, or by such fine and imprisonment, both at the discretion of the court having jurisdiction by taking cognizance of the offence; and all vessels, their tackle, apparel, and furniture whose crew shall be found engaged in the violation of any of the provisions of this Act shall be forfeited to the United States.

Sec. 3. And be it further enacted that for the period of twenty years from and after the passing of this Act the number of fur seals which may be killed for their skins upon the Island of St. Paul is hereby limited and restricted to seventy five thousand per annum; and the number of fur seals which may be killed for their skins upon the Island of St. George is hereby limited and restricted to twenty five thousand per annum: Provided that the Secretary of the Treasury may restrict and limit the right of killing if it shall become necessary for the preservation of such seals with such proportionate reduction of the rents reserved to the Government as shall be right and proper, and if any person shall knowingly violate either of the provisions of this section, he shall, upon due conviction thereof, be punished in the same way as provided herein for a violation of the provisions of the first and second sections of this Act.

Sec. 4. And be it further enacted, that immediately upon the passage of this Act, the Secretary of the Treasury shall lease for the rental mentioned in section 6 of this Act, to proper and responsible parties, to the best advantage of the United States having due regard to the interests of the Government, the native inhabitants, the parties heretofore engaged in trade, and the protection of the seal fisheries for a term of twenty years from the first day of May, 1870, the right to engage in the business of taking fur seals on the Islands of St. Paul and St. George, and to send a vessel or vessels to said islands for the skins of such seals, giving to the lessee or lessees of said islands a lease, duly executed in duplicate not transferable, and taken from the lessee or lessees of said islands a bond with sufficient securities in a sum not less than five hundred thousand dollars conditioned for the faithful observance of all the laws and requirements of Congress and of the regulations of the Secretary of the Treasury touching the subject matter of taking fur seals and disposing of the same, and for the payment of all taxes and dues according to the United States connected therewith, and in making said lease the Secretary of the Treasury shall have due regard to the preservation of the seal fur trade of said islands and the comfort, maintenance, and education of the natives thereof. The said lessees shall furnish to the several masters of vessels employed by them certified copies of the lease held by them respectively, which shall be presented to the Government revenue officer for

the time being who may be in charge at the said islands as the authority of the party for landing and taking skins.

Sec. 5. And be it further enacted, that at the expiration of said term of twenty years or on surrender or forfeiture of any lease, other leases may be made in manner aforesaid for other terms of twenty years; but no persons other than American citizens shall be permitted by lease or otherwise, to occupy said islands or either of them, for the purpose of taking the skins of fur seals therefrom, nor shall any foreign vessel be engaged in taking such skins, and the Secretary of the Treasury shall vacate and declare any lease forfeited if the same be held or operated for the use, benefit, or advantage, directly or indirectly, of any person or persons other than American citizens. Every lease shall contain a covenant on the part of the lessee that he will not keep, sell, furnish, give or dispose of any distilled spirits or spirituous liquors on either of said islands to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine; and any person who shall kill any fur seal on either of said islands, or in the waters adjacent thereto, without authority of the lessees thereof, and any person who shall molest, disturb or interfere with said lessees, or either of them, or their agents or employees in the lawful prosecution of their business under the provisions of this Act, shall be deemed guilty of a misdemeanor and shall for each offence on conviction thereof, be punished in the same way and by like penalties as prescribed in the second section of this Act. And all vessels, their tackle, apparel, appurtenances and cargo, whose crews shall be found engaged in any violation of either of the provisions of this section, shall be forfeited to the United States; and if any person or company under any lease herein authorized, shall knowingly kill, or permit to be killed, any number of seals exceeding the number for each island in this Act prescribed, such person or company shall, in addition to the penalties and forfeitures aforesaid, also forfeit the whole number of the skins of seals killed in that year, or, in case the same have been disposed of, then said person or company shall forfeit the value of the same, and it shall be the duty of any revenue officer officially acting as such on either of said islands, to seize and destroy any distilled spirits or spirituous liquors found thereon: Provided, that such officer shall make detailed report of his doings to the collector of the port.

Sec. 6. And be it further enacted, that the annual rental to be reserved by said lease shall not be less than fifty thousand dollars per annum; to be secured by deposit of United States bonds to that amount, and in addition thereto a revenue tax as duty, of two dollars, is hereby laid upon such fur seal skin taken and shipped from said Islands during the continuance of such lease, to be paid into the Treasury of the United States; and the Secretary of the Treasury is hereby empowered and authorized to make all needful rules and regulations for the collection and payment of the same, for the comfort, maintenance, education and protection of the natives of said Islands, and also for carrying into full effect all the provisions of this Act: Provided further, that the Secretary of the Treasury may terminate any lease given to any person, company or corporation on full and satisfactory proof of the violation of any of the provisions of this Act or the rules and regulations established by him: Provided further, that the Secretary of the Treasury is hereby authorized to deliver to the owners of the fur seal skins now stored on the Islands, on the payment of one dollar for each of said skins taken and shipped away by said owners.

Sec. 7. And be it further enacted, that the provisions of the seventh and eighth sections of an "Act to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district thereon and for other purposes," approved July 27th, 1868, shall be deemed to apply to this Act, and all the prosecutions for offences committed against the provisions of this Act, and all other proceedings had because of the violations of the provisions of this Act, and which are authorized by said Act above mentioned, shall be in accordance with the provisions thereof; and all Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Sec. 8. And be it further enacted, that the Congress may at any time hereafter, alter, amend, or repeal this Act.

Approved July 1st, 1870.

TREASURY DEPARTMENT, Washington D.C., April 19th, 1872.

SIR, -- Your letter of the 25th ultimo was duly received, calling the attention of the Department to certain rumors circulating in San Francisco, to the effect that expeditions are to start from Australia and the Hawaiian Islands, to take fur seals on their annual migration to the Islands of St. Paul and St. George, through the narrow pass of Unimak. You recommend, to cut off the possibility of evil resulting to the interests of the United States from these expeditions, that a revenue cutter be sent to the region of Unimak Pass, by the 15th of May next. A very full conversation was had with Captain Bryant upon this subject while he was at the Department, and he convinced it to be entirely impracticable to make such an expedition a paying one, inasmuch as the seals go singly or in pairs, and not in droves, and cover a large region of water in their homeward travel to these Islands, and he did not seem to fear that the seals would be driven from their accustomed resorts, even were such attempts made.

In addition I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempt within a marine league of the shore.

As at present advised, I do not think it expedient to carry out your suggestions; but I will thank you to communicate to the Department any further facts or information you may be able to gather upon the subject.

I am, very respectfully,

GEO. S. BOUTWELL, *Secretary*.

This Indenture, in duplicate, made this 3rd day of August, A.D. 1870, by and between William A. Richardson, Acting Secretary of the Treasury, in pursuance of an Act of Congress, approved July 1st, 1870, entitled: "An Act to prevent the extermination of fur-bearing animals in Alaska," and the Alaska Commercial Company, a corporation duly established under the laws of the State of California, acting by John F. Miller, its President and Agent, in accordance with a resolution of said corporation, duly adopted at a meeting of its Board of Trustees, held January 31st, 1870;

Witnesseth,--That the said Secretary hereby leases to the said Alaska Commercial Company, without power to transfer, for the term of twenty years, from the 1st day of May, 1870, the right to engage in the business of taking fur seals on the islands of St. George and St. Paul, within the Territory of Alaska, and to send a vessel or vessels to said islands for the skins of such seals.

And the said Alaska Commercial Company, in consideration of their right under this lease, hereby covenant and agree to pay for each year during said term and in proportion during any part thereof, the sum of \$55,000 into the treasury of the United States, in accordance with the regulations of the Secretary, to be made for this purpose under said Act, which payment shall be secured by deposit of United States bonds to that amount; and also covenant and agree to pay annually into the Treasury of the United States under said rules and regulations, a revenue tax or duty of \$2 upon each fur, seal skin taken and shipped by them, in accordance with the provisions of the Act aforesaid; and also the sum of 62½ cents for each fur seal skin taken and shipped, and 55 cents per gallon for each gallon of oil obtained from said seals for sale on said islands or elsewhere, and sold by said company. And also covenant and agree, in accordance with said rules and regulations, to furnish free of charge, the inhabitants of the islands of St. Paul and St. George annually during said term, 25,000 dried salmon, 60 cords firewood, and a sufficient quantity of salt, and a sufficient number of barrels for preserving the necessary supply of meat.

And the said lessees also hereby covenant and agree during the term aforesaid, to maintain a school on each island, in accordance with said rules and regulations,

and suitable for the education of the natives of said islands, for a period of not less than eight months in each year.

And the said lessees further covenant and agree not to kill upon said island of St. Paul more than 75,000 fur seals, and upon the island of St. George not more than 25,000 fur seals per annum; not to kill any fur seal upon the island aforesaid in any other month except the months of June, July, September and October of each year; not to kill such seals at any time by the use of firearms or other means tending to drive the seals from said islands; not to kill any female seal or any seal less than one year old; not to kill any seal in the waters adjacent to said islands or on the beaches, cliffs or rocks where they haul up from the sea to remain.

And the said lessees further covenant and agree to abide by any restriction or limitation upon the rights to kill seals under this lease, that the Act prescribes or that the Secretary of the Treasury shall judge necessary for the preservation of such seals.

And the said lessees hereby agree that they will not in any way sell, transfer or assign this lease, and that any transfer, sale or assignment of the same shall be void or of no effect.

And the said lessees further covenant and agree to furnish to the several masters of the vessels employed by them, certified copies of this lease, to be presented to the Government revenue officers for the time being in charge of said islands, as the authority of said lessees for the landing and taking said skins.

And the said lessees further covenant and agree that they or their agents shall not keep, sell, furnish, give or dispose of any distilled spirits or spirituous liquors on either of said islands to any of the natives thereof, such person not being a physician furnishing the same for use as medicine.

And the said lessees further covenant and agree that this lease is accepted subject to all needful rules and regulations which shall at any time or times hereafter be made by the Secretary of the Treasury for the collection and payment of the rentals herein agreed to be paid by said lessees, for the comfort, maintenance, education, and protection of the natives of said islands, and for carrying into effect all the provisions of the Act aforesaid, and will abide by and conform to said rules and regulations.

And the said lessees, accepting this lease with a full knowledge of the provisions of the aforesaid Act of Congress, further covenant and agree that they will fulfil all the provisions, requirements and limitations of said Act, whether herein specifically set out or not.

In witness whereof the parties aforesaid have hereunto set their hands and seals the day and year above written.

WILLIAM A. RICHARDSON, *Acting Secretary of the Treasury.*  
ALASKA COMMERCIAL COMPANY.

By JNO. F. MILLER, *President.*

Executed in presence of J. H. SAVILLE.

I certify the foregoing printed copy of the lease of the United States to the Alaska Commercial Company of the right to take fur seals in the Territory of Alaska, has been compared with the original on file in this Department and is a true copy thereof.

J. H. SAVILLE, *Chief Clerk, Treasury Department.*

WASHINGTON, D.C., September 3rd, 1870.

State of California, City and County }  
of San Francisco. }

COLLECTOR'S OFFICE, CUSTOM HOUSE, December 23rd, 1885.

I hereby certify the foregoing to be correct copies of original documents on file in this office.

State of California, City and County }  
of San Francisco. }

John T. Fogarty, being duly sworn, deposes and says that the foregoing are true and correct copies of original documents on file in the office of the Collector of Customs of the Port of San Francisco, that he has compared the foregoing with said originals and knows them to be correct copies to his own knowledge.

JOHN T. FOGARTY.

Subscribed and sworn to, before me, this 23rd day of December, 1885.

JOHN E. HAMILL, *Notary Public*.

#### THE ALASKA SEIZURES.

*A Common Sense View of the Whole Situation.—A Brooklyn Paper Speaks Out.—What is the Law?—The Greatest Maritime Judge Living.—The Seal Monopoly.*

[From the "Brooklyn Eagle."]

The recent seizure of vessels in Behrings Sea by the United States revenue steamer "Corwin," for the alleged illegal capture of seals in the waters of the United States has attracted a surprisingly slight amount of attention, in this quarter at least. This is probably due to the fact that the Cabinet has not had a meeting for some time, and that but one Cabinet Minister remained in Washington, so that there was a lack of information on the subject which was unfavorable to its discussion. Now, however, we have something like an official report of what took place from the Captain of the "Corwin," and the matter is ripe for the attention of the press of the United States. No one who gives the subject his notice can fail to recognize the fact that it is one of the most important questions this Government was ever called upon to discuss, and that it may involve consequences of the highest moment.

The Captain of the "Corwin," it would appear, was acting under positive instructions received at San Francisco, commanding him to seize and deliver to the United States District Court of Alaska, for condemnation and seizure, all vessels found engaged in the capture of seals within Alaskan waters, which were defined to include all of Behrings Sea east of the line from Behrings Strait to a point west of the most western of the Aleutian Islands. Under this interpretation a vessel might be more than 500 miles from the mainland of America and still a trespasser in Alaskan waters, and therefore liable to seizure. The complaints which led to the issuing of these instructions came from the Alaska Fur Seal Company, who lease the seal fisheries from the Government for the payment of \$317,000 annually.

The vessels captured were six in number, three of them being described as British, one American, from San Francisco, but the nationality of the other two is not given. It is not pretended that any of them was within a marine league of the shore; in fact, the only vessel whose place of capture is specifically stated in the despatch is the British schooner "Thornton," which, the Captain of the "Corwin" says, was captured about 70 miles south-south-east of St. George. This would bring her 150 miles from the chain of the Aleutian Islands and 300 miles from the nearest point of the mainland.

The captured schooners were taken to Ounalaska, where they were libelled for condemnation, and their crews were conveyed to Sitka, where the masters and mates, in addition to the loss of their vessels, were tried before Judge Dawson and fined and imprisoned.

In the case of the "Thornton," the Captain was fined \$500 and to be imprisoned for thirty days, while the mate of the same vessel was fined \$300. Judge Dawson, in passing sentence, was very severe on the prisoners and likened their offence to piracy, telling them that they had no more right to go into the waters of another nation to interfere with its industries than they had to go upon another man's land and appropriate his crops. Judge Dawson, although only a district judge, considers that his jurisdiction extends over the whole of the waters of Alaska, comprising about a million square miles of what would elsewhere be regarded as the high seas, so that he may be safely regarded as the greatest maritime judge extant.

If it should be reported some day in the papers that a Gloucester fisherman had been captured by a Canadian cruiser 300 miles off the coast of Nova Scotia, and that

her master and mate, in addition to the loss of their vessel, had been heavily fined, and were then languishing in a Canadian prison, there would probably be some indignation in New England. Yet that, as regards the maritime aspect of the case, is substantially what the Alaskan seizures amount to. It is maintained, however, that the circumstances of these cases are modified by the fact that Russia claimed the whole of Behrings Sea as part of her territory, and that the waters claimed by this Government were ceded as part of Alaska. Judge Dawson is reported to have said on this point that Russia had claimed and exercised jurisdiction over all that part of Behrings Sea embraced in the boundary line set forth in the Treaty, and that claim had been tacitly recognized and acquiesced in by the other maritime powers of the world for a long series of years prior to the Treaty of 30th March, 1867. He held that the jurisdiction had been transferred, and that the United States had acquired absolute control and dominion over the area described in the treaty, and that British vessels manned by British subjects had no right to navigate the waters for the purpose of killing fur-bearing seals. If this is good law, that is the end of the matter; but is it good law? Unless we are greatly in error there are copies of despatches on the files of the State Department, written prior to 1867, in which the Russian claim is distinctly repudiated and denied. Circumstances may have changed since then as to our attitude toward the subject, but the principle has not. And we doubt greatly whether the United States would ever have admitted such a claim if made by another nation. What would be said, for instance, if the British undertook to prevent an American whaler from entering Hudson Bay or traversing the western half of that arm of the Atlantic Ocean which leads to it? Maritime law and international are the same whether on the Atlantic or the Pacific, and there is certainly something grotesque in the sight of hundreds of American fishermen hovering on the Canadian Atlantic coast just beyond the three-mile limit and claiming to enter all bays more than three miles wide at the mouth, and fish, while on the Pacific Canadian vessels are captured three hundred miles from the mainland, and the claim is made that a bay more than one thousand miles wide at the mouth shall be a closed sea to them.

There is another aspect to the case, not international, but national. One of the vessels captured was an American schooner from San Francisco. All other American vessels, except those of the Alaska Seal Fur Company, are, therefore, excluded from these waters which are claimed as belonging to Alaska. Is there any warrant for this in the Constitution of the United States? It has been the evil policy of the nation to give up the whole Territory of Alaska to one gigantic monopoly, to discourage settlement and all legitimate enterprises not connected with the fur trade. Is this policy to be continued? It surely was not for this purpose that the territory was bought, but that its resources might be developed and such parts of it as are suitable for settlement opened to industrious workers. But for nineteen years Alaska has been nothing but the reserve of a great corporation, which is even now scheming to obtain a renewal of its franchise there. The matter is one of the greatest interest and importance to the American people, who are not desirous of establishing monopolies in Alaska or elsewhere, but wish to see all their territory opened up and made available for the use of all our citizens.

GOVERNMENT HOUSE, VICTORIA, B. C., August 23th, 1886.

SIR,—I have the honor to report that a few days since I received a telegram from Mr. Mason, acting British Consul at San Francisco, to the following effect: "‘Carolina,’ ‘Thornton,’ seized by United States steamer ‘Corwin’ for illegal sealing; about twenty men from them put on board ‘St. Paul’; arrived here last night; they ask me for protection and to send them to Victoria. Advise me what to do, they are not charged with anything." Upon receipt of this, I arranged with the owners of the "Carolina," and "Thornton" for the return of the men here, and they arrived on the 23rd.

The "Carolina" and "Thornton," belonging to different owners, are sloops owned here, and fitted out here for the prosecution of seal fishing in the North Pacific

and Behrings Sea. It seems, from the accounts given, that they were peaceably pursuing their avocations, and not within 70 miles of land when they were seized by United States revenue steamer "Corwin," as above stated. Some of the men were shipped to San Francisco; the sloops and their masters are retained in some Alaskan port. This extraordinary and high handed proceeding was doubtless perpetrated in the interests of the Alaska Commercial Company and ostensibly for the protection of the fur sealing fisheries which are leased by the Government of the United States to that company. In reality it proclaims the right of that Government to the sole use of the fisheries of those northern waters, an idea so preposterous as to be ludicrous. I enclose a cutting from a newspaper published here which gives as correct an account of the matter as we have at present, and also a statement of the facts relating to the transfer to the United States of the Russian American possessions, and of the lease and concessions granted by the Government of the United States to the company above mentioned. The matter has been already laid before the Honorable the Minister of Marine and Fisheries, who opportunely arrived here a few days after my receiving information of it, but I beg to call your earnest attention to it, so that the whole case being laid before the Imperial authorities, steps may be taken not only to cause reparations to be made for the outrage committed, but to definitely prevent any possible repetition of it.

I have the honor to be, Sir, your obedient servant,

CLEMENT F. CORNWALL, *Lieutenant-Governor.*

#### SEALING SCHOONER SEIZURES.

As the late seizures of an American and three British sealing schooners by an American revenue cutter in the Behrings Sea are almost certain to lead to international complications on account of the extravagance of the assumption upon which those seizures were made, a brief history of the events which led up to them will be acceptable at the present time. In March, 1867, a Treaty was made between Russia and the United States, by which Russia ceded all its possessions in British North America to the Government of the United States. One of the terms of that Treaty declared that the western limit, within which the territories and dominion conveyed are contained passes through a point in Behrings Straits on the parallel of 65 degrees 30 minutes north latitude at its intersection by the meridian, which passes midway between the Islands of Krusenstein or Ignalook and the Island Ratmanoff or Noon-arbook, and proceeds due north without limitation into the frozen ocean. The same western limit beginning at the same initial point, proceeds thence in a course nearly south-west through Behrings Sea, so as to pass midway between the north-west point of St. Lawrence and the south-east point of Cape Caoutkotski, to the meridian of 172 west longitude, thence from the intersection of that meridian in a south-westerly direction, so as to pass midway between the Island of Atton and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean, to the meridian of 179 degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian. So far, so good. In July, 1870, in the second session of the forty-first Congress, an Act was passed entitled "An Act to prevent the extermination of fur-bearing animals in Alaska," in which the number of seals to be killed for their skins was limited on St. Paul's and St. George's Islands, to 75,000 per annum on each island, with power by the Secretary of the Treasury to further limit the number if necessary, and giving that official power to lease for rental mentioned in the Act, to proper and responsible parties, to the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, the parties hitherto engaged in trade, and the protection of the seal fisheries, for a term of twenty-five years, from May, 1870, the right to engage in taking seals on the Islands of St. Paul and St. George. Another section declares that any person who shall kill any fur seal on either of said islands, or in the waters adjacent thereto, without authority from the lessees thereof, or interfere with them in the lawful prosecution of their duty, shall be deemed guilty of a misdemeanor, and shall for

each offence, upon conviction, be punished, and all their vessels, tackle, apparel, appurtenances and cargo shall be forfeited to the United States. In the month following the passage of this Act, that is, in August, 1870, a lease called the Seal Island Lease, was executed between the United States Government and the Alaska Commercial Company - a corporation established in California. In return for the exclusive privilege of taking for twenty years (with certain restrictions) fur seals in the Islands of St. Paul and St. George, the lessees agreed to pay to the Government an annual sum of \$55,000, \$2.62½ for each seal skin taken, 55 cents for each gallon of seal oil sold, and to annually provide the natives with a certain quantity of provisions and fuel. The months of June, July, September and October, were, moreover, the only months during which the capture of seals could be prosecuted. Under this lease or concession, this company has perpetuated its monopoly for sixteen years, reaping a vast profit therefrom. Not satisfied with the prolific source of its supply and the facilities afforded it for engaging in the business, the company has sought and practically succeeded in controlling the seal fur market by its aggressiveness in pretending to construe the term "and the waters adjacent thereto," as meaning that vast sea of waters included in the limits of cession named in the Russo-American Treaty of 1867. In this interpretation, it has received the unrelaxed support of the United States Government, whose interests in the matter are identical with those of the company; and here it may be remarked that the royalty paid by the latter furnishes a handsome profit upon the purchase money of Alaska Territory.

One or two American revenue cutters are always cruising in the Behrings Sea and that portion of the North Pacific to the south of the Aleutian Islands, ever on the alert to prevent any vessels but those of the Alaska Commercial Company from capturing seals there. Meeting with no effectual opposition and the cost of litigation precluding any chance of success for the appellant, the Government has become more and more aggressive until finally, changing from a defensive to an offensive supervision, their action has culminated in the deliberate seizure of three British sealing schooners upon—whatever a national greed may declare to the contrary—the high and open seas—recognized by international law as part of the world's great highway—free to the commerce of all countries, and a natural means of the intercourse of all nations. It is laid down as one of the first principles of maritime and commercial international law, that the open sea or main ocean is like the atmosphere, free for common use to all mankind, and cannot be appropriated by any State to the exclusion of the others. Bearing in mind the huge improbability of the act of the revenue cutter not being in consonance with Governmental orders, what do we find? That a nation disregarding on one coast the belt of the sea literal which constitutes the range belonging to coast defences, is actually assuming on another coast supreme maritime jurisdiction over a waste of waters comprising half of the northern portion of a vast ocean. In the exercise of this self-arrogated authority foreign mercantile vessels are forcibly seized, and, with their cargoes, are declared confiscated; while, with an unaccountable magnanimity, the crews, after being landed at an American port many hundreds of miles distant from the scene of their capture, are allowed to go at large. It may be advanced that if open to indiscriminate capture the fur seal would have ere this become extinct or nearly so. But though this has been the case with the seal in southern regions, it is a fact, which deplorable as it may be, would furnish a most flimsy excuse to a Government whose regulation of the industry in Alaskan waters is prompted not by philanthropy, but by strictly mercenary considerations. So far has this latter disposition carried them as to cause them to become responsible for an act which if committed by a vessel privately manned and owned, would bear but one interpretation. As it is, the act is one that is rash, aggressive, and in the face of what is known, bitterly unjust, and is already spoken of as an unworthy means of reprisal for the late seizures made by Canada of American fishing vessels on the Atlantic coast. The sealing schooners when seized were over seventy miles from any land, and how, with this fact before them, the United States Government can attempt, with any show of reason, to justify the conduct of the commander of the "Corwin" it is difficult to imagine. With what evidence we have at hand, the seizures and

detention are manifestly illegal; and representations of the affair through the proper official channels, have already been forwarded to the Home Government. Britain is not belligerent; the strength she possesses—imparted by the commerce she conducts in every quarter of the globe—she does not misuse. But she has “grit” and accords justice; and, while respecting the right of other nations to traverse the high seas unmolested, expects, and is in a position to secure, recognition of that same right for herself.

*From the (Portland) “Oregonian”, United States.*

#### THE ALASKA FRAUD.

#### *Seizure of British schooners in Behrings Sea.*

NEWPORT, August 20th.

*Editor “Oregonian.”*—The seizure of the British vessels in the waters of Alaska has probably raised an issue and will result in settling a question of great importance to the American people, and especially to the people of the Pacific coast.

Of all the blunders or frauds committed by the Republican party there is probably none more palpable or positive, yet better concealed, than the acquisition and disposition of Alaska. And it seems strange that our people could rest so long and so quietly under so great a wrong as has been committed. The purchase of Alaska from Russia was all right. It was a good investment, and reflects credit on Secretary Seward and the Administration that consummated the purchase. But the disposition of it afterwards was all wrong, and is a gross injustice to the American people, and is a piece of secret history that may never be written.

Let us briefly view the facts. Alaska was bought for about seven million dollars, and paid for out of the common treasury of the United States, and then what was done? Was it thrown open to settlement, so that American citizens could search out its hidden wealth and develop its wonderful resources? No, but on the contrary it was closed up like a sealed book and handed over to the care and custody of a private corporation to draw millions from, while American citizens were carefully excluded or hunted like pirates, if they ventured within its limits. Of course it is claimed that the Alaska Commercial Company merely acquired the right from the Government to the two small islands of “St. George and St. Paul.” But let any person attempt to fit out a small vessel for the purpose of trading or hunting in Alaska, and he will soon discover that the Alaska Commercial Company are sovereigns, and reign supreme over all the broad territory, and the collectors of Customs and all the revenue officers of the Government seem to be their servants, and stand ready to do their bidding. I said the rights acquired by this company are a part of the secret history of the country; how they obtained this valuable franchise may never be known to the public; but it is claimed by many that it was simply the result of downright bribery and corruption from General Grant, down through each department of the Government. And money has been poured out freely to obtain and maintain their ill-gotten rights. But it would take too much of your valuable space to discuss all that is involved in this part of the question. This grasping monopoly, not satisfied with the almost exclusive control of this vast domain, containing over five hundred thousand square miles, now assume the ownership of the Behrings Sea, and are employing their servants, the revenue officials, to hunt down and seize the little hunting vessels that have been going up there for the past few years to hunt for seals in the open sea. But, fortunately for American citizens, they have probably gone a step too far, and by seizing the British vessels the question of this company’s title may be tested and decided. The question may be asked, how did the Alaska Commercial Company acquire a title to Behrings Sea? Perhaps it may be answered, from the United States Government. Well, how did the United States Government obtain the title? It may be answered again, from Russia. But when and how did Russia ever obtain exclusive control of this vast sea, and by what right did she convey it to the United States? For it appears that in the conveyance of this territory by Russia to the United States they drew the dividing or boundary line down through the centre of Behrings Straits, and then down through the Aleutian Islands to the Meridian 173

degrees west longitude. May they not as well have continued the line south through the Pacific Ocean to the South Pole, and thus divided the whole Pacific between the United States and Russia. I say it is fortunate that these British vessels have been seized, because by this means, and probably only by such means, could one ever hope for a satisfactory solution of this question.

It would be a hopeless undertaking for an obscure citizen of small means to seek redress, either through our courts or through Congress, for wrongs inflicted upon him by this soulless and overbearing company. The immense profits accruing to the company from their franchise, affords them the means to head off legal redress and to control Congressmen by subsidizing them.

Once in a while, the Government sends out a commissioner to examine into the company's affairs, to see if they kill the correct number of seals, etc. When he arrives in San Francisco, a fine steamer is ready to receive him and convey him to the islands, and, being so nicely treated and entertained, he could hardly fail to find everything all right.

Then he returns to Washington, and the company requires the service of an agent to watch Congress, and see that no unfavorable legislation is enacted. So he gets paid by the Government to watch the company, and paid by the company to watch the Government, and consequently his trip is a very pleasant and profitable one.

Our revenue vessels have been kept cruising in the Alaskan waters for years, under various pretences, but their real business is to watch the little traders and hunters and to protect the interests of the Alaska Commercial Company. They go there to prevent trading, and they become traders themselves. This has been brought home so closely to the Government that notice had to be taken of it and a check placed upon it.

But I must really beg pardon for making this article so long. The only point that I really intended to call attention to is the new question that is raised by the seizure of these vessels. Does the lease of the Alaska Commercial Company give them the exclusive use of Behrings Sea? Will England admit this? I think not, and it is to be hoped she will not. If we have a corporation so powerful that our Government cannot control it, perhaps England may help us out. Humiliating as this may seem, it is better than the present state of affairs. It were as well that Alaska had remained Russian territory, as to have become American only in name. By publishing this and getting public attention directed to this subject, you may accomplish great good and contribute largely to prevent a renewal of this infamous lease, and thus break up an overbearing and oppressive monopoly.

Respectfully,

J. J. WINANT.

*Copy of Letter from Daniel Munroe, Master of Schooner "Onward."*

SCHOONER "ONWARD," PORT ILIOLUK,

OUNALASKA, 7th August, 1886.

CHARLES SPRING, Esq., Victoria.

DEAR SIR,—On the 2nd, while the "Onward" was in latitude  $54^{\circ} 52' N.$ , longitude  $167^{\circ} 55' W.$ , and about 70 miles from the nearest land, the United States revenue cutter "Corwin," having the schooners "Thornton" and "Carolina" in tow, boarded us and sent a crew on board and towed us in here, where we are lying at present, with sails bent and seals on board, and a watchman in charge, but can't find out what they intend to do with us, so I can't say anything more about it at present.

I met the "Favorite" on the 28th. Captain McLean was on board of us. We gave him 508 skins and they had 1,290 they took themselves, making them about 1,800 total; and, as we were in sight of each other until the night of the 1st instant, he must have made a good catch, for we have 400 skins on board at present that we took in four days, and I am positive his crowd could take twice that number, as we have not got the best of sealers.

I believe all the schooners done well, and I trust they will get away all right. There is no cutter out at present, as there is only two of them up here, one of them up in the Arctic, and the other that brought us here is still watching us here.

We may find out to-day how they are going to dispose of us, but I am in hopes they made false steps, and that they can do nothing more than spoil the season.

They took the schooner "San Diego" in here about a month ago and took the skins out of her, and unbent her sails and put everything ashore, and they are sending the crew to San Francisco to-day in one of the Fur Company's steamers, "St. Paul."

Later on, have heard nothing more, only the crews of the "Thornton" and "Carolina" are going to San Francisco to-day in the steamer "St. Paul," except the captain and one man of each vessel, but they took none of our crew.

There are rumors afloat that the three schooners are to be laid up here all winter, and that we are to be taken to Sitka, but no certainty. I wrote you this morning as the boat was leaving the wharf, thinking that she was going away, but she came to anchor in the roads, and I don't think I finished it; I was afraid of being late. We sent a protest on board the cutter against the action of the authorities in seizing the vessel on the high seas, but I don't know if it will amount to much; there is no Notary Public here to sign it. I have nothing more to write you. Trusting things will turn out better than we expect,

I remain, &c.,

DANL. MUNROE.

*Mr. William Munsie to the Honorable George E. Foster.*

VICTORIA, B. C., 15th November, 1886.

DEAR SIR,—As our sealing schooners will leave Victoria on or about the 10th of December, for the sealing expeditions of 1887, many of them will not return to Victoria until September, or, in other words, not until the Behrings Sea trip is completed. We are exceedingly anxious to know what is being done in the case of our seized vessels, and whether or not we may look for protection against what we, and even the American press, is pleased to term piracy. We have no occasion to interfere with the Alaska Commercial Company's rights on the Priboloff Islands, nor do our vessels come anywhere near land. The fact is we take out at sea from fifty to one hundred miles, what the Honorable H. Elliot, of the Smithsonian Institute, in his report of 1874, on the Seal Island, calls bachelor seals, or those not required on breeding grounds, to which report I would be pleased to draw your attention. The industry is of too much importance to Canada to allow the Alaska Commercial Company to dictate who shall and who shall not take seals on the high or Behrings Sea.

For the season of 1886 there was brought into Victoria, from the Pacific Ocean and Behrings Sea, and shipped therefrom to England and the United States, 50,000 skins, valued at about \$350,000. It is evident that the business is worth protecting. Just here allow me to contradict a statement made by Special Agent Single of the United States Treasury Department, in which he says that three-fourths of the seals shot in the water sink and are lost.

From the experience of our hunters I maintain but a small percentage is lost in this way, probably not over one in fifty. I doubt if the loss is as great as that caused by the rejection of skins after being clubbed by the Alaska Commercial Company on the Islands, to which reference is made in the tables of Elliot's report. The Americans themselves in 1824 repudiated Russia's claim to the Behrings Sea, when Russia seized the Boston brig "Pearl" for whaling. Two years later Russia had to give the vessel up, and paid damages.

In conclusion I may say that the seized skins are liable to be valueless on account of neglect. Captain Ogilvie's body has been discovered. A jury was empanelled, and a verdict was given in accordance with the facts of the case. Hoping you may be pleased to advise us in this matter before our vessels sail, you will confer a great favor on

Your most obedient servant,

WM. MUNSIE, Victoria, B. C.

*Mr. Stanhope to Lord Lansdowne.*

*Telegram from the Secretary of State for the Colonies on the 1st December, 1886.*

Her Majesty's Government has made a protest against the seizures by the United States of Canadian schooners in Alaskan waters. An authentic report of the trial is awaited by the United States Government.

SECRETARY OF STATE.

To the Governor General, Ottawa.

*Lord Lansdowne to Sir L. West.*

OTTAWA, 9th December, 1886.

SIR,—With reference to the Administrator's despatches, Nos. 15 and 16, of the 28th September last, I have the honor to forward, for your information, a copy of a despatch which I have addressed to the Right Honorable the Secretary of State for the Colonies, transmitting a copy of an approved Report of a Committee of my Privy Council dated the 29th ultimo, dealing with the seizure of the Canadian schooners "Carolina," "Onward" and "Thornton" by the United States revenue cutter "Corwin," while fishing for seals in Behrings Sea.

I have, &c.,

Minister at Washington.

LANSDOWNE.

*Sir L. West to the Marquis of Lansdowne.*

WASHINGTON, 12th December, 1886.

MY LORD,—I have the honor to acknowledge the receipt of Your Excellency's despatch, No. 82, of the 9th instant, enclosing for my information, copy of a despatch and of its enclosures addressed by Your Excellency to the Secretary of State for the Colonies, dealing with the seizure of the Canadian schooners "Carolina," "Onward" and "Thornton" by the United States revenue cutter "Corwin," while fishing for seals in Behrings Sea.

I have, &c.,

L. S. SACKVILLE WEST.

His Excellency the MARQUIS OF LANSDOWNE, G.C.M.G.

*Mr. Stanhope to the Marquis of Lansdowne.*

DOWNING STREET, 16th December, 1886.

MY LORD.—With reference to my telegram of the 1st instant, respecting the seizure of Canadian sealing schooners in Behrings Sea, I have the honor to transmit to you, for communication to your Government, copies of the letters noted in the margin, with their enclosures, which have been received from the Foreign Office.

It will be seen that the United States Government are awaiting an authentic report of the proceedings in question, before replying to the representations made to them by Her Majesty's Minister at Washington.

I have, &c.,

EDWARD STANHOPE.

Governor General, the Most Hon. the MARQUIS OF LANSDOWNE, G.C.M.G.

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, November 16th, 1886.

SIR,—With reference to the letter from this office of the 9th instant, I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, copies of despatches as marked in the margin, from Her Majesty's Minister at Washington, relating to the seizure of sealing schooners in Behrings Sea.

I am, &c.,

The Under Secretary of State, Colonial Office.

T. V. LISTER.

*Sir L. West to the Earl of Iddesleigh.*

WASHINGTON, 21st October, 1886.

MY LORD,—Upon the receipt of Your Lordship's despatch No. 181, of the 9th ultimo, I immediately addressed a note to the Secretary of State in accordance with the instructions therein contained, and copy of which is herewith enclosed, requesting to be furnished with any particulars which the United States Government may possess relative to the seizure of certain British Columbian seal schooners by the United States revenue cruiser "Corwin," but to which I have received no reply.

Upon the receipt of Your Lordship's telegram, No. 15, of yesterday's date, I addressed the note, copy of which is likewise enclosed, protesting in the name of Her Majesty's Government against the said seizures, and reserving rights to compensation.

I have, &c.,

L. S. SACKVILLE WEST.

[ *Enclosure 1.* ]

*Sir L. West to Mr. Bayard.*

WASHINGTON, 27th September, 1886.

SIR,—I have the honor to inform you that Her Majesty's Government have received a telegram from the Commander in Chief of Her Majesty's naval forces on the Pacific Station, respecting the alleged seizure of three British Columbian seal schooners by the United States revenue cruiser "Corwin," and I am, in consequence, instructed to request to be furnished with any particulars which the United States Government may possess relative to this occurrence.

I have, &c.,

L. S. SACKVILLE WEST.

[ *Enclosure 2.* ]

*Sir L. West to Mr. Bayard.*

WASHINGTON, 21st October, 1886.

SIR,—With reference to my note of the 27th ultimo, requesting to be furnished with any particulars which the United States Government may possess relative to the seizure in the North Pacific waters of three British Columbian seal schooners by the United States revenue cruiser "Corwin," and to which I am without reply, I have the honor to inform you that I am now instructed by the Earl of Iddesleigh, Her Majesty's Principal Secretary of State for Foreign Affairs, to protest in the name of Her Majesty's Government against such seizure, and to reserve all rights to compensation.

I have, &c.,

L. S. SACKVILLE WEST.

*Sir L. West to the Earl of Iddesleigh.*

WASHINGTON, October 21st, 1886.

MY LORD,—With reference to your Lordship's telegram, No. 16, of this day's date, I have the honor to inform your Lordship that no answer has as yet been returned to the communication which, in obedience to the instructions contained in your Lordship's despatch, No. 181, of the 9th ultimo, I addressed to the Secretary of State, asking to be furnished with any particulars which the United States Government may possess relative to the seizures of British vessels in Behrings Sea, and that I have at present no knowledge of any appeal having been made against the decisions of the United States courts condemning the parties concerned. The above information was telegraphed to your Lordship this day.

I have, &c.,

L. S. SACKVILLE WEST.

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 20th November, 1886.

SIR,—I am directed by the Earl of Iddesleigh to request that you will state to Mr. Secretary Stanhope that the telegram from the Governor General of Canada, relating to the seizure of British schooners in Behrings Sea, which accompanied your letter of the 14th instant, has been communicated to Her Majesty's Minister at Washington.

I am now to transmit to you a telegram received from Sir L. West in reply, and I am to state that the despatch numbered 250, to which he alludes, has not yet been received, and that a copy of it shall be communicated, for Mr. Stanhope's information, immediately on its arrival.

I am, &amp;c.,

T. V. LISTER.

The Under-Secretary of State, Colonial Office.

*Telegram from Sir L. West.*

19th November, 1886.

Your Lordship's telegram No. 20. See my despatch No. 250. Secretary of State will reply to your Lordship's No. 214 as soon as possible.

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 26th November, 1886.

SIR,—With reference to the letter from this office of the 20th instant, I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, copies of two despatches, as marked in the margin, from Her Majesty's Minister at Washington, relating to the seizure of fishing vessels in Alaskan waters.

I am, &amp;c.,

The Under Secretary of State, Colonial Office.

T. V. LISTER.

*Sir L. West to the Earl of Iddesleigh.*

WASHINGTON, 12th November, 1886.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's despatch, No. 214, of the 30th ultimo, relative to the seizure of the schooners "Carolina," "Onward" and "Thornton," in the waters of the Northern Pacific Ocean, adjacent to Vancouver Island, Queen Charlotte Islands and Alaska, and which formed the subject of my note to the Secretary of State, of the 27th September last, to which no reply has been received.

At an interview which I had this day with Mr. Bayard, I alluded to my note, asking for any particulars which the United States Government might possess respecting the seizures in question, and he immediately said that he must apologize for not having replied to it, but he had, he said, as yet received no report of the procedure of the courts in the matter, and had, for this reason, delayed his answer.

I then said that I was instructed to make him acquainted with the information with which Her Majesty's Government had been furnished respecting this matter, and that I had received a despatch to this effect from your Lordship, the substance of which I proceeded to give him. He remarked that he was not in possession of the information contained in your Lordship's despatch, owing, he presumed, to the communication with England by Vancouver Island being quicker than that with Washington by Portland (Oregon).

In fact, he said, the Territory was not properly organized. He had not, moreover, reached the exact nature of the rights ceded by Russia to the United States, but it seemed clear that Russia, previous to the cession, contended that Behrings Sea was a *mer fermez*, whereupon I remarked, "and against which contention the United States protested." "Yes," he replied, "at that time."

Mr. Bayard's manner was most conciliatory, but he evidently wished to avoid further discussion on the contents of your Lordship's despatch, of which he asked me for a copy, which I placed in his hands.

I have, &c.,

The EARL of IDDESLEIGH, G.C.B.

L. S. SACKVILLE WEST.

*Sir L. West to the Earl of Idedesleigh.*

WASHINGTON, 14th November, 1886.

MY LORD,—With reference to my despatch, No. 234, of the 21st ultimo, I have the honor to enclose to your Lordship, herewith, copy of a note which I have received from the Secretary of State, explaining and apologizing for the delay which has occurred in replying to my note of 27th September last asking for information respecting the seizure by the United States revenue cutter "Corwin," in the Behrings Sea, of British vessels, and noting the protest on the part of Her Majesty's Government against such seizures contained in my note of 21st ultimo, copy of which was enclosed in my above-mentioned despatch.

I have, &c.,

The EARL of IDDESLEIGH, &c., &c., &c.

L. S. WEST.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE.

SIR,—The delay in my reply to your letters of September 21st and October 21st, asking for information in my possession concerning the seizure by the United States revenue cutter "Corwin," in the Behrings Sea, of British vessels, for an alleged violation of the laws of the United States in relation to the Alaska seal fisheries, has been caused by my waiting to receive from the Treasury Department the information you desired. I tender the fact in apology for the delay and as the reason for my silence, and repeating what I said verbally to you in our conversation this morning, I am still awaiting full and authentic reports of the judicial trial and judgment in the cases of the seizures referred to.

My application to my colleague, the Attorney General, to procure an authentic report of these proceedings, was promptly made, and the delay in furnishing the report, doubtless, has arisen from the remoteness of the place of trial.

So soon as I am able I will convey to you the facts as ascertained in the trial and the rulings of law as applied by the court.

I take leave also to acknowledge your communication of the 21st of October, informing me that you had been instructed by the Earl of Idedesleigh, Her Majesty's Principal Secretary of State for Foreign Affairs, to protest against the seizure of the vessels above referred to and to reserve all rights of compensation, all of which shall receive respectful consideration.

I have, &c.,

SIR L. WEST, &c., &c.

T. F. BAYARD.

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 29th November, 1886.

SIR,—With reference to my letter of the 26th inst., I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, copy of a despatch as marked in the margin in regard to the seizure of sealing schooners in Behrings Sea.

I am, &c.,

The Under-Secretary of State, Colonial Office.

T. V. LISTER.

*Sir L. S. West to the Earl of Idedesleigh.*

WASHINGTON, 19th November, 1886.

MY LORD,—Upon the receipt of your Lordship's telegram, No. 10, of yesterday's date, I sought an interview with the Secretary of State and asked him whether he

had received the official report of the proceedings of the Court at Sitka (Alaska) against the British vessels seized in Behrings Sea. Mr. Bayard replied in the negative, and said that he had been urging the Attorney General in the matter since he last saw me.

It would be, he continued, a complicated question of jurisdiction, for he had been told that many of the sealskins found on board British vessels were skins of seals which had not been shot, but clubbed, which proved that a landing had been effected.

He said that he would reply to your Lordship's despatch, which I had communicated to him, as soon as possible.

I have, &c.,

L. SACKVILLE WEST.

THE EARL OF IDDESLEIGH, &c., &c., &c.

*Colonial Office to Lord Lansdowne.*

DOWNING STREET, 14th January, 1887.

MY LORD,—I am directed by the Secretary of State to transmit to you, for the information of your Government, the document specified in the annexed schedule.

I have, &c.,

ROBERT G. W. HERBERT.

Tre Officer Administering the Government of Canada.

Date.	Description of document.
13th January, 1887.—	Copy of a letter from the Foreign Office respecting the employment of the United States ship "Thetis" in Alaskan waters.

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 13th January, 1887.

SIR,—I am directed by the Secretary of State for Foreign Affairs to request that you will inform the Secretary of State for the Colonies, that Her Majesty's Minister at Washington has reported that the United States ship "Thetis" has been ordered to join the Pacific squadron, and will be employed in the waters of Alaska.

I am, &c.,

P. W. CURRIE.

The Under-Secretary of State, Colonial Office.

*Lord Lansdowne to Mr. Stanhope.*

OTTAWA, 15th January, 1887.

SIR,—With reference to previous correspondence respecting the seizure of Canadian sealing schooners in Behrings Sea, I have the honor to transmit to you, in order that reparation may be sought from the United States Government, a copy of an approved Report of a Committee of the Privy Council of Canada, submitting papers containing full statements of claims for damage sustained, and compensation demanded by the owners, masters and mates of the schooners "Onward," "Thorn-ton" and "Carolina."

I have, &c.,

Rt. Hon. EDWARD STANHOPE,  
&c., &c., &c.,

LANSDOWNE.

CERTIFIED COPY of a Report of a Committee of the Honorable the Privy Council for Canada, approved by His Excellency the Governor General in Council on the 3rd January, 1887.

On a Report, dated 27th December, 1886, from the Minister of Marine and Fisheries, submitting papers containing full statements of claims for damage sustained, and compensation demanded by the owners, masters and mates of the seal-

ing schooners "Onward," "Thornton" and "Carolina," which vessels were seized by the United States revenue cutter "Corwin," in Behrings Sea, in August, 1886, and concerning which full representations have been made to Her Majesty's Government in despatches bearing date respectively the 23rd and 24th of September, and the 29th of November, 1886, and recommending that copies of the same be transmitted to the Right Hon. the Principal Secretary of State for the Colonies, in order that reparation may be sought from the United States Government for all damages and loss to British subjects consequent upon the illegal action of the United States officers in the cases referred to.

The Committee, concurring in the above, advise that Your Excellency be moved to transmit copies of the papers accordingly.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. McGEE,  
*Clerk Privy Council, Canada.*

THE CLAIM OF DANIEL MUNRO, MASTER OF THE BRITISH SCHOONER "ONWARD."

I claim against the Government of the United States, or whom it may concern, the sum of eight thousand dollars (\$8,000.00) for loss of wages, layout, damages and indemnity for illegal seizure of the schooner "Onward" by the commander of the United States steamer "Corwin," in the Behrings Sea, on the 1st August, 1886 (or thereabouts), and for detention and subsequent wrongful imprisonment in gaol at Sitka.

DANIEL MUNROE,  
By his Attorney in fact,  
EDGAR CROW BAKER.

VICTORIA, B.C., 20th October, 1886.

THE CLAIM OF HANS GUTTORMSEN, MASTER OF THE BRITISH SCHOONER  
"THORNTON."

I claim against the Government of the United States, or whom it may concern, the sum of eight thousand dollars (\$8,000.00) for loss of wages, layout, damages and indemnity for illegal seizure of the schooner "Thornton" by the commander of the United States steamer "Corwin," in the Behrings Sea, on the 1st August, 1886, and for detention and subsequent wrongful imprisonment in gaol at Sitka.

HANS GUTTORMSEN,  
By his Attorney in fact,  
EDGAR CROW BAKER.

VICTORIA, B C , 20th October, 1886.

British Columbia, { Damages claimed by the owner of schooner "Carolina" in re-  
To wit : { spect of her seizure by the United States S S. "Corwin" while  
fishing in Behrings Sea.

I, Willam Munsie, of Victoria, B.C., owner of the British schooner "Carolina," do solemnly and sincerely declare:—

1. That the value of the said vessel, at the time of her seizure by the United States S S. "Corwin," was \$4,000, and the cost of her outfit, when she left Victoria for the Behrings Sea, was \$3,000.

2. That she carried a crew of eleven men, and the estimated wages due to the master and men for four months from the 15th day of May, 1886, to the time of the return of the said men to Victoria, is \$4,500.

3. That at the time of her capture by the "Corwin" she had 686 seal skins, which were worth, at \$7 each, \$4,802.

4. That the probable catch for the season, estimated on the number of skins taken by the schooner "Mary Ellen," which was 3,554 skins, and by the number of skins taken when the said schooner was captured, would be 3,000 skins, the value of which would be \$21,000.

5. That the loss sustained by me in consequence of the detention of the said schooner, and my being unable to employ her in ordinary work after the sealing season is over, is \$450 a month, which sum I claim until the vessel is returned to me in good order and condition.

6. That I have also paid and incurred liabilities connected with the arrest of the said vessel and in defence of the master and crew for legal and other expenses, \$1,000.

And I make this solemn declaration conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled: "An Act for the suppression of voluntary and extra-judicial oaths."

WILLIAM MUNSIE.

Taken and declared, before me, this 20th October, 1886.

M. W. TYRWHITT DRAKE, *Notary Public*, Victoria, B.C.

British Columbia, { Damages claimed by the owner of the schooners "Onward" and  
To wit: { "Favorite," in respect of their seizure by the United States  
S.S. "Corwin," while fishing in Behrings Sea.

I, Charles Spring, of Victoria, B.C., owner of the British schooners "Onward" and "Favorite," do solemnly and sincerely declare:—

1. That the value of the said vessel "Onward," at the time of her seizure by the United States S.S. "Corwin," was \$4,000.00, and the cost of her outfit when she left Victoria for the Behrings Sea, was \$1,000.

2. That she carried a crew of 20 men, and the estimated wages due to the master and men for four months from the 12th day of June to the time of their return to Victoria, is \$7,500.

3. That at the time of her capture by the "Corwin" she had 400 seal skins, which were worth \$2,800.

4. The probable catch for the season, estimated on the number of skins taken by the schooners and by the number of skins taken when the said schooner was captured, would be 3,000 skins, the value of which, at \$7 skin, would be \$21,000.

5. That the loss sustained by me, in consequence of the detention of the said schooner, and my being unable to employ her in ordinary work after the sealing season is over, is \$500 a month, which sum I claim until the vessel is returned to me in good order and condition.

6. That I have also paid and incurred liabilities, connected with the arrest of the said vessel and in defence of the master and crew, for legal and other expenses, \$1,000; and I also claim \$3,000 damages because the officer in command of the United States S.S. "Corwin," as she passed the "Favorite," ordered her to cease sealing, which she did, and thereby lost her season.

And I make this solemn declaration, conscientiously believing the same to be true, by virtue of an Act passed in the 37th year of Her Majesty's reign, intituled: "An Act for the suppression of voluntary and extra-judicial oaths."

C. SPRING.

Taken and declared, before me, this 18th October, 1886.

M. W. TYRWHITT DRAKE, *Notary Public*, Victoria, B.C.

British Columbia, { Damages claimed by the owner of the steam vessel "Thornton"  
To wit: { for illegal seizure by the United States S.S. "Corwin," while  
fishing in Behrings Sea.

I, James Douglas Warren, of Victoria, B.C., owner of the British steam vessel "Thornton," do solemnly and sincerely declare:—

1. That the value of the said vessel at the time of her seizure by the United States S.S. "Corwin," was \$6,000, and the cost of her outfit when she left Victoria for the Behrings Sea, was \$4,000.

2. That she carried a crew of fifteen men, and the estimated wages due to the master and men for four months from the 26th day of May to the 1st day of October, the date of their return to Victoria, which I have to pay, is \$5,100.

3. That at the time of her capture by the "Corwin" she had 403 seal skins, which, at \$7 each, were worth \$2,821.

4. That the probable catch for the season estimated on the number of skins taken by the schooner "Mary Ellen," and by the number of skins taken when the said vessel was captured, would be 3,000, of the value of \$21,000.

5. That the loss sustained by me in consequence of the detention of the said vessel, and by being unable to employ her in ordinary work after the sealing season is over, is \$500 a month, which sum I claim until the vessel is returned to me in good order and condition.

6. That I have also paid and incurred liabilities connected with the arrest of the said vessel and in defence of the master and crew, for legal and other expenses, \$1,000.

And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled: "An Act for the suppression of voluntary and extra-judicial oaths."

J. D. WARREN.

Taken and declared at Victoria, this 19th day of October, 1886, before me,  
M. W. TYRWHITT DRAKE, *Notary Public*.

VICTORIA, B.C.

I, James Blake, mate of the schooner "Carolina," claim \$5,000 as damages for my illegal arrest and imprisonment on board the "Corwin" and in gaol at Sitka from 1st of August to 16th September, 1886.

Witness, M. W. TYRWHITT DRAKE.

JAMES BLAKE.

VICTORIA, B.C.

I, John Margotich, mate of the schooner "Onward," claim \$5,000 as damages for my illegal arrest and imprisonment on board the United States vessel "Corwin" and in gaol at Sitka from the 23rd August, 1886, to 29th September, in the same year.

JOHN MARGOTICH,

Witness, M. W. TYRWHITT DRAKE.

By C. SPRING, his Attorney.

VICTORIA, B.C., 19th October, 1886.

I, Harry Norman, mate of the steamer "Thornton," claim as compensation for my illegal arrest and imprisonment on board the United States steamship "Corwin," and in gaol at Sitka, the sum of \$5,000.

HARRY NORMAN,

By J. D. WARREN, his Attorney.

Witness, M. W. TYRWHITT DRAKE, Victoria, B.C.

VICTORIA, B.C., 19th October, 1886.

I, James Ogilvie, master of the schooner "Carolina," claim as compensation for my arrest and imprisonment on board the United States steamship "Corwin," and in gaol at Sitka, the sum of \$5,000.

JAMES OGILVIE,

Witness, M. W. TYRWHITT DRAKE.

By his Attorney, A. J. BECHTIE.

ABSTRACT OF DAMAGES.

Damages as per Declaration.	Schr. "Onward."	SS. "Thornton"	Schr. "Carolina."	Schr. "Favorite."
Value of vessel and outfit.....	\$5,000 00	\$10,000 00	\$7,000 00	.....
Wages of crew.....	7,500 00	5,100 00	4,500 00	.....
Value of sealskins on board.....	2,800 00	2,821 00	4,802 00	.....
Value of probable catch.....	21,000 00	21,000 00	21,000 00	.....
Loss sustained by detention. Par. 5.....	.....	.....	.....	.....
Legal and other expenses.....	1,000 00	1,000 00	1,000 00	.....
Loss sustained by order to cease sealing.....	.....	.....	.....	\$3,000 00

## FOR ILLEGAL ARREST AND IMPRISONMENT.

Daniel Munroe, master of "Onward," for indemnity for illegal seizure, loss, &c.....	\$8,000 00
John Margotich, mate of "Onward".....	5,000 00
Harry Norman, mate of "Thornton".....	5,000 00
James Ogilvie, master of "Carolina".....	5,000 00
James Black, mate of "Carolina".....	5,000 00
Hans Guitormsen, master of "Thornton".....	8,000 00

*Sir H. Holland to the Marquis of Lansdowne.*

DOWNING STREET, 19th January, 1887.

MY LORD,—With reference to your despatch, No. 281, of the 27th of November last, and to previous correspondence respecting the seizure of certain Canadian schooners, engaged in the seal fishery in Behrings Sea, I have the honor to transmit to you, for the information of Your Lordship's Government, a copy of a letter from the Foreign Office, with its enclosures on the subject.

I have, &c.,

H. T. HOLLAND.

Governor General, the Most Hon. the MARQUIS OF LANSDOWNE,  
&c.,                      &c.,                      &c.

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 10th January, 1887.

SIR,—With reference to your letter of the 4th instant, I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, copies of the despatches noted in the margin, which have been addressed to Her Majesty's Minister at Washington, relative to the seizure of the three British sealing schooners in Behrings Sea, by the United States cruiser "Corwin."

I am, &c.,

P. W. CURRIE.

The Under Secretary of State, Colonial Office.

*The Earl of Iddesleigh to Sir L. West.*

FOREIGN OFFICE, 8th January, 1887.

SIR,—Referring to previous correspondence in regard to the case of the three Canadian schooners engaged in the seal fishery in Behrings Sea, I transmit to you herewith a copy of a letter from the Colonial Office, explaining the views of the Dominion Government in the matter.

Nearly four months have now elapsed since my despatch, No. 181, of the 9th of September last, was addressed to you, in which you were directed to invite the Government of the United States to furnish you with any particulars they might possess relative to the occurrence, and further instructions were sent to you in my subsequent despatches, Nos. 208, 209, 214, and 232, of the 20th, 21st and 30th of October, and 18th of November, but up the present date no reply has been received from that Government as to the alleged proceedings of their officials.

I have now to instruct you to express to Mr. Bayard the concern of Her Majesty's Government at receiving no reply to the serious representations which they have felt compelled to make on the information which has reached them respecting the proceedings of the United States cruiser "Corwin," in seizing British sealing schooners on the high seas, and to urge with all the force which the gravity of the case requires the immediate attention of the United States Government to the action of the American authorities in their treatment of these vessels, and of their masters and crews.

I am, &c.,

The Hon. Sir L. West.  
&c.,

&c.,

&c.

IDDESLEIGH.

*Copy of telegram No. 1—Earl of Iddesleigh to Sir L. West.*

FOREIGN OFFICE, 8th January, 1887, 6.25 P. M.

Your despatch, No. 254.

Further papers go by mail of 8th.

Express to Secretary of State, concern of Her Majesty's Government at receiving no reply to their grave representation respecting proceedings of United States cruiser in seizing British vessels on the high seas.

Urge his immediate attention to this matter with all the force which the gravity of the case requires.

*Sir H. Holland to the Marquis of Lansdowne.*

DOWNING STREET, 19th January, 1887.

MY LORD,—With reference to previous correspondence respecting the seizure by the United States authorities of Canadian sealing schooners in Behrings Sea, I have the honor to transmit to you, for the information of your Government, copies of two letters, with their enclosures, from the Foreign Office, on the subject.

I have, &c.,

H. T. HOLLAND.

Governor General, the Most Hon. the MARQUIS OF LANSDOWNE, G.C.M.G.

&c.,

&c.,

&c.

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 6th December, 1886.

SIR,—I laid before the Earl of Iddesleigh your letter of the 30th ultimo, enclosing the telegram from the Governor General of Canada enquiring whether vessels which are now equipping in British Columbia for the fisheries in Behrings Sea will be exposed to seizure by United States cruisers.

I am directed by His Lordship to request that you will lay before Mr. Secretary Stanhope the enclosed copy of telegraphic instructions which have been addressed to Her Majesty's Minister at Washington, directing him to endeavor to obtain from the United States Government an assurance that, pending a settlement of the question of international law which has arisen, no more seizures will be made beyond the territorial waters of Alaska.

Mr. Stanhope will observe that Sir L. West is desired to communicate to the Marquis of Lansdowne the result of his application to the United States Government.

I am, &c.,

The Under-Secretary of State, Colonial Office.

P. W. CURRIE.

*Telegram to Sir L. West, No. 23.*

FOREIGN OFFICE, 6th December, 1886, 3.30 p.m.

Vessels equipping in British Columbia for Behrings Sea fisheries, Canadian Government enquire whether exposed to seizure.

Seek assurance that pending settlement of question no seizure of British vessels will be made beyond the territorial waters of Alaska.

Communicate result to Governor General of Canada.

IDDESLEIGH.

*The Foreign Office to the Colonial Office.*

FOREIGN OFFICE, 28th December, 1886.

SIR,—With reference to your letter of the 14th instant, and to previous correspondence, I am directed by the Secretary of State for Foreign Affairs, to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington, on the subject of the Behrings Sea fisheries.

I am, &c.,

The Under-Secretary of State, Colonial Office.

P. W. CURRIE.

*Sir L. West to the Earl of Iddesleigh.*

WASHINGTON, 10th December, 1886.

MY LORD,—I have the honor to acknowledge the receipt of your lordship's telegram No. 24, of the 6th inst., and to enclose to you herewith copy of a note which I addressed to the Secretary of State in the sense of it.

This morning I had an interview with Mr. Bayard, and spoke to him on the subject of my note. He said that he was still waiting for the report of the Attorney General, but that it would, of course, not influence the views of Her Majesty's Government, nor indeed those of his Department, as to the nature of the jurisdiction over Behrings Sea, ceded by Russia to the United States in 1867, which, he said, was a complicated question, but one which would be met in all fairness by the United States Government. He continued to explain to me that the value of Alaska consisted in the seal fisheries, that the seals frequented chiefly the islands of St. Paul and St. George, where the great catch was made, and that these islands, although situated (as he stated) more than 200 miles from the mainland, were, he conceived, comprised in the jurisdiction ceded by Russia, but he did not wish to pronounce upon this point at present. He would observe, however, that the value of the seal "rookeries" on these islands would be destroyed if it was opened to all vessels to kill seals outside the three-mile limit, for no seals would ever reach them. I did not discuss this question with Mr. Bayard, and merely reminded him that I hoped that he would answer the communication I had made to him, and which was the object of my visit.

I have, &c.,

L. S. SACKVILLE WEST.

The EARL OF IDDESLEIGH,

&c.,

&c.,

&c.

*Sir L. West to Mr. T. F. Bayard.*

WASHINGTON, 7th December, 1886.

SIR,—Referring to your note of the 12th ultimo, on the subject of the seizure of British vessels in the Behrings Sea, and promising to convey to me, as soon as possible, the facts as ascertained in the trial and the rulings of law, as applied by the court, I have the honor to state that vessels are now, as usual, equipping in British Columbia for fishing in that sea. The Canadian Government, therefore, in the absence of information, are desirous of ascertaining whether such vessels fishing in the open seas and beyond the territorial waters of Alaska would be exposed to seizure, and Her Majesty's Government, at the same time, would be glad if some assurance could be given that, pending the settlement of the question, no such seizures of British vessels will be made in Behrings Sea.

I have, &c.,

L. S. SACKVILLE WEST.

The Hon. T. F. BAYARD, &c., &c., &c.

*Sir L. West to Lord Lansdowne.*

*Re ALASKA SEIZURES.*

4th February, 1887.

To Governor General, Ottawa.

Secretary of State has informed me that orders have been given that all pending proceedings are to be discontinued, vessels seized discharged, and all persons who have been arrested in connection therewith released. He adds that the conclusion of any questions involved is reserved, until the papers relative to the question have arrived.

WEST.

*Sir L. West to the Marquis of Lansdowne.*

WASHINGTON, 4th February, 1887.

MY LORD,—With reference to my telegram of this day's date respecting the

seizure of British vessels in Behrings Sea, I have the honor to enclose to Your Excellency herewith copy of the note which I received from the Secretary of State, the substance of which was therein embodied.

I have, &c.,

L. S. SACKVILLE WEST.

The Marquis of LANSDOWNE, G.C.M.G., &c., &c., &c.

*Mr. Bayard to Sir L. West.*

DEPARTMENT OF STATE, WASHINGTON, 3rd February, 1887.

SIR,—I beg to acknowledge your note of yesterday's date, received to-day.

Upon its receipt I made instant application to my colleague, the Attorney-General, in relation to the record of the judicial proceedings in the cases of the three British vessels arrested in August last in Behrings Sea for violation of the United States laws regulating the Alaskan seal fisheries.

I am informed that the documents in question left Sitka on the 26th of January, and may be expected to arrive at Port Townsend, in Washington Territory, about the 7th instant, so that the papers, in the usual course of mail, should be received by me within a fortnight.

In this connection I take occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

I have, &c.,

T. F. BAYARD

*Sir H. Holland to the Marquis of Lansdowne.*

DOWNING STREET, 5th February, 1887.

MY LORD,—With reference to my secret despatch of the 19th ultimo, and to previous correspondence respecting the seizure of Canadian sealing schooners in Behrings Sea, I have the honor to transmit to you, for communication to your Ministers, copies of two letters, with their enclosures, from the Foreign Office, on the subject.

I have, &c.,

H. T. HOLLAND,

Governor General, the Most Hon. the Marquis of LANSDOWNE, G.C.M.G., &c., &c., &c.

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 27th January, 1887.

SIR,—With reference to previous correspondence, I am directed by the Secretary of State for Foreign Affairs to transmit to you to be laid before Secretary Sir Henry Holland, a copy of a despatch from Her Majesty's Minister at Washington, on the subject of the seizure of British sealing vessels in Behrings Sea.

I am, &c.,

P. W. CURRIE.

The Under-Secretary of State, Colonial Office.

*Sir L. West to the Foreign Office.*

WASHINGTON, 13th January, 1887.

MY LORD,—With reference to my despatch No. 7, of the 7th instant, I have the honor to enclose to Your Lordship herewith copy of a note which I have received from the Secretary of State, in answer to my communication, expressing the concern of Her Majesty's Government at receiving no reply to their representations respecting the seizures of British vessels in Behrings Sea.

I have, &c.,

L. S. SACKVILLE WEST.

The Secretary of State, Foreign Affairs.

*Mr. Bayard to Sir L. S. West.*

DEPARTMENT OF STATE, WASHINGTON, 12th January, 1887.

SIR,—Your note of the 9th instant was received by me on the next day, and I regret exceedingly that, although my efforts have been diligently made to procure from Alaska the authenticated copies of the judicial proceedings in the cases of the British vessels "Carolina," "Onward" and "Thornton," to which you refer, I should not have been able to obtain them in time to have made the urgent and renewed application of the Earl of Iddesleigh superfluous. The pressing nature of your note constrains me to inform you that on 27th September last, when I received my first intimation from you that any question was possible as to the validity of the judicial proceedings referred to, I lost no time in requesting my colleague, the Attorney General, in whose department the cases were, to procure for me such authentic information as would enable me to make full response to your application.

From week to week I have been awaiting the arrival of the papers, and to-day, at my request, the Attorney General has telegraphed to Portland in Oregon, the nearest telegraph station to Sitka in Alaska, in order to expedite the furnishing of the desired papers.

You will understand that my wish to meet the questions involved in the instructions you have received from your Government is averred, and that the delay has been enforced by the absence of requisite information as to the facts.

The distance of the vessels from any land, or the circumstances attendant upon their seizure, are unknown to me save by the statements in your last note, and it is essential that such facts should be devoid of all uncertainty.

Of whatever information may be in the possession of Her Majesty's Government I have, of course, no knowledge or means of knowledge, but this Department of the Government of the United States has not yet been placed in possession of that accurate information which would justify its decision in a question which you are certainly warranted in considering to be of grave importance. I shall diligently endeavor to procure the best evidence possible of the matters enquired of, and will make due response thereupon when the opportunity of decision is afforded to me.

You require no assurance that no avoidance of our international obligations need be apprehended.

I have, &c.,

Sir L. WEST, K.C.M.G.

T. F. BAYARD.

*Foreign Office to Colonial Office.*

FOREIGN OFFICE, 29th January, 1887.

SIR,—With reference to previous correspondence, I am directed by the Secretary of State for Foreign Affairs, to transmit to you to be laid before Secretary, Sir Henry Holland, a copy of a despatch as marked in the margin, from Her Majesty's Minister at Washington, on the subject of his representations to the United States Government with regard to the seizure of British vessels in Behrings Sea.

I am, &c.,

The Under Secretary of State, Colonial Office.

P. W. CURRIE.

(Confidential.)

FURTHER correspondence respecting the seizure of Canadian schooners by the United States Revenue Cutter "Corwin."

No. 1.

*Sir L. West to the Earl of Iddesleigh.*

WASHINGTON, 10th January, 1887.

MY LORD,—I have the honor to acknowledge the receipt of Your Lordship's telegram, No. 1, of the 8th instant, and to enclose to Your Lordship herewith, copy of a note which I immediately addressed to the Secretary of State, referring to my notes of the 27th September, 21st October, and 7th December last, and to Your

Lordship's despatch, No. 214, of the 30th October, copy of which, as reported in my despatch No. 250, of the 12th November, I placed in his hands, and expressing the sense in which Her Majesty's Government viewed his silence with regard to the communications which had been made to him respecting the seizure of British vessels in Behrings Sea.

I have, &c.,

L. S. SACKVILLE WEST.

[*Enclosure No. 1*]

*Sir L. West to Mr. Bayard.*

WASHINGTON, January 9, 1887.

SIR,—I have the honor to inform you that I have received instructions from the Earl of Iddesleigh, Her Majesty's Principal Secretary of State for Foreign Affairs, again to bring to your notice the grave representations made by Her Majesty's Government respecting the seizure of the British vessels "Carolina," "Onward," and "Thornton," in Behrings Sea, by the United States cruiser "Corwin," to which no reply has as yet been returned.

On the 27th September last, I had the honor to address to you a note, in which I stated that Her Majesty's Government requested to be furnished with any particulars which the United States Government might possess relative to this occurrence.

On the 21st October last, I had the honor to inform you that I was instructed by the Earl of Iddesleigh to protest, in the name of Her Majesty's Government, against such seizures, and to reserve all rights to compensation.

In a note, dated the 12th November last, you were good enough to explain the delay which had occurred in answering these communications, and, on the same day, I had the honor to communicate to you a despatch from the Earl of Iddesleigh, a copy of which, at your request, I placed in your hands.

On the 7th ultimo I again had the honor to address you, stating that vessels were equipping in British Columbia for fishing in Behrings Sea, and that the Canadian Government were desirous of ascertaining whether such vessels, fishing in the open sea, and beyond the territorial waters of Alaska, would be exposed to seizure, and that Her Majesty's Government would be glad if some assurance could be given that, pending the settlement of the questions, no such seizures of British vessels would be made in Behrings Sea.

The vessels in question were seized at a distance of more than 60 miles from the nearest land at the time of their seizure. The master of the "Thornton" was sentenced to imprisonment for thirty days, and to pay a fine of \$500, and there is reason to believe that the masters of the "Onward" and "Carolina" have been sentenced to similar penalties.

In support of this claim to jurisdiction over a stretch of sea extending in its widest part some 600 or 700 miles from the mainland, advanced by the judge in his charge to the jury, the authorities are alleged to have interfered with the peaceable and lawful occupation of Canadian citizens on the high seas, to have taken possession of their ships, to have subjected their property to forfeiture, and to have visited upon their persons the indignity of imprisonment. Such proceedings, therefore, if correctly reported, would appear to have been in violation of the admitted principle of international law. Under these circumstances, Her Majesty's Government do not hesitate to express their concern at not having received any reply to their representations, nor do they wish to conceal the grave nature which the case has thus assumed, and to which I am now instructed to call your immediate and most serious attention.

It is unnecessary for me to allude further to the information with which Her Majesty's Government has been furnished respecting these seizures of British vessels in the open seas, and which, for some time past, has been in the possession of the United States Government, because Her Majesty's Government do not doubt that if, on enquiry, it should prove to be correct, the Government of the United States will, with their well-known sense of justice, admit the illegality of the proceedings

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resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected, and for the losses which they have sustained.

In conclusion, I have the honor again to refer to your note of the 12th November last, and to what you said verbally to me on the same day, and to express the hope that the cause of the delay complained of in answering the representations of Her Majesty's Government on this grave and important matter, may be speedily removed.

I have, &c.,

L. S. SACKVILLE WEST.

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# ADDENDA.

*The Governor General to Sir H. Holland.*

TORONTO, 21st May, 1887.

SIR,—With reference to previous correspondence on the subject of the seizure of Canadian sealing schooners in Behrings Sea, I have the honor to forward herewith a copy of an approved Minute of the Privy Council, concurring in a report of my Minister of Marine and Fisheries, and recommending that the attention of Her Majesty's Government be called to the grave injustice done by the United States authorities to British subjects peaceably pursuing their lawful occupations on the high seas, to the delay which has taken place in enquiring into and redressing wrongs committed, to the severe, inhospitable and unjustifiable treatment of the officers and crews of the vessels seized, and to the serious loss inflicted upon owners of the same, in order that full and speedy reparation may be made by the United States Government.

I have, &c.,

LANSDOWNE.

The Right Hon. Sir HENRY HOLLAND,  
&c., &c., &c.

*CERTIFIED Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 16th May, 1887.*

On a report, dated 9th May, 1887, from the Minister of Marine and Fisheries, submitting the following résumé of facts with reference to the Canadian sealing schooners "Carolina," "Onward" and "Thornton," seized by the United States revenue cutter "Corwin" in Behrings Sea, in the year 1886.

The above-named vessels fitted out at Victoria, British Columbia, for seal hunting in the waters of the Pacific Ocean adjacent to Queen Victoria Islands, Queen Charlotte Islands and Alaska.

At the time of seizure (1st and 2nd August, 1886) they were at a distance of more than 60 miles from the nearest land. They were taken possession of by the United States cutter and towed to the Port of Oonalaska, where they were detained.

The crews of the "Carolina" and "Thornton," with the exception of the captain and one man detained at Oonalaska, were sent by steamer to San Francisco and there turned adrift, while the crew of the "Onward" was kept at Oonalaska.

At the time of the seizure, the "Carolina" had on board 686 seal skins, the "Onward" 900, and the "Thornton" 404. These, as well as the schooners, are, so far as the Minister is aware, still at Oonalaska in possession of the United States authorities.

The master and mate of the "Thornton" were brought for trial before Judge Dawson, in the United States District Court, at Sitka, on the 30th August, 1886. The evidence given by the officers of the United States revenue cutter went to show that this vessel was seized for the offence of taking seals in that portion of Behrings Sea ceded to the United States by Russia in 1867; being then at a distance of from 60 to 70 miles from St. George Island.

The Judge charged the jury to the effect that, if they believed the defendants to have been sealing in the Behrings Sea east of the 193rd degree of longitude west, they should bring in a verdict of guilty and assess separate fines or imprisonment. The jury brought in a verdict of guilty.

The master of the "Thornton" was sentenced to 30 days' imprisonment and to pay a fine of \$500, and the mate to 30 days' imprisonment and a fine of \$300. The masters and mates of the "Onward" and "Carolina" were mulcted in similar penalties.

On the 23rd and 24th September, 1886, Orders in Council were approved by His Excellency the Governor General, setting forth the above facts and representing the injustice to which Canadian citizens engaged in a peaceable and lawful occupation on the high seas, had been subjected, in spite of admitted principles of international law, and in direct opposition to the United States contention of what constitutes common waters on the Atlantic coasts, and copies thereof were forwarded to Her Majesty's Government, with a request that immediate reparation be demanded from the United States Government.

On the 12th November, 1886, Mr. Bayard informed Sir L. West that he was awaiting full and authentic reports of the trial and judgment in the cases of these seizures, before further discussing the matter.

On the 8th January, 1887, the Earl of Iddesleigh addressed Sir L. West, deprecating the delay which had taken place in securing these particulars, calling upon him to urge, with all the force which the gravity of the cases demanded, the immediate attention of the United States Government to the action of the American authorities in this treatment of these vessels, mates and crews, and directing him to seek assurance that, pending a settlement of the question, no seizures of British vessels would be made beyond the territorial waters of Alaska.

On the 9th January, 1887, Sir L. West wrote to Mr. Bayard, reviewing the whole case, and urging immediate action. On the 12th of the same month Mr. Bayard replied, explaining the reasons of the delay, and stating that every possible despatch had been made in order to procure the necessary papers.

On the 3rd February, Mr. Bayard informed Sir L. West that the documents relative to those seizures left Sitka on the 26th January, and might be expected to reach him within a fortnight. In the meantime he informed the British Minister that orders had been issued for the discontinuance of all pending proceedings, the discharge of the vessels and the release of all persons under arrest in connection with these seizures, and that the conclusion of any questions involved must be reserved until the papers relating thereto had arrived.

On the 4th February Sir L. West communicated the above information to His Excellency the Governor General.

The Minister further states that from information received from the owners of the seized vessels and from the Collector of Customs at Victoria, B. C., he learns that James Ogilvie, an old man and master of the "Carolina," was arrested along with the masters and mates of the "Onward" and "Thornton" and brought into court for trial, but that before sentence was pronounced he was suffered to wander away into the woods, where he died from want and exposure; that the other masters and mates, after remaining several months in prison, were released by order of the Governor of Alaska and turned adrift, literally destitute, to find their way as best they could to their homes 1,500 miles distant, and which could be reached only by a long and costly sea voyage; that the owners of the condemned vessels have received no intimation from the United States authorities of the release of their vessels, or the restoration of the valuable cargoes of seal skins and equipments on board, and that they have no information as to the condition in which their property is at the present time.

The owners are thus left in complete uncertainty as to when or where their property is to be restored, and anticipate serious damage, if not total loss, to their vessels from the tremendous gales which during the past winter have swept the north Pacific coasts. They also state that, knowing well, as they do, the character of the Indians in that vicinity, and apprehending that no very vigilant watch has been kept over their property, they fear that everything movable will have been carried away. If they are compelled to receive the vessels at Oonalaska where they have been detained, it will necessitate the chartering of a steamer, with men and supplies, at great expense, and a round voyage of some three thousand miles in order to bring them to Victoria.

The consequent damage and loss to vessels and cargoes through detention, and the heavy cost which will be entailed in bringing them to the home port, the owners consider good ground for claiming consideration from the United States authorities when the question of reparation is being settled.

The Committee concurring in the foregoing report of the Minister of Marine and Fisheries, advise that Your Excellency be moved to call the attention of Her Majesty's Government again to the grave injustice done by the United States authorities to British subjects peaceably pursuing their lawful occupation on the high seas, and to the great delay which has taken place in enquiring into and redressing the wrongs committed, to the severe, inhospitable and unjustifiable treatment of the officers and crews of the vessels seized, and to the serious loss inflicted upon owners of the same, in order that full and speedy reparation may be made by the United States Government.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. MCGEE,  
*Clerk Privy Council.*

CUSTOM HOUSE, VICTORIA, 23rd April, 1887.

SIR,—In reply to your letter of the 15th instant, I beg to state that none of the masters or mates of the vessels seized in Behrings Sea, in August last, remain now in imprisonment. When the vessels were condemned, the Judge, Mr. Dawson, sentenced masters and mates to fines which were never paid, and to different terms of imprisonment. Ogilvie, master of the "Carolina," an old man, was arrested and brought into court, but before the sentence was pronounced he wandered away into the woods and died there. The others, after serving a time in prison, were released by an Order of the Governor, and turned loose, literally destitute, to find their way home in any way they could. The vessels themselves, "Carolina," "Onward" and "Thornton," are now, as far as we know, in Oonalaska, but unless they have been properly taken care of, which in such a place seems scarcely probable, they must, during the winter months, have suffered greatly, even if they are still in existence. The skins taken from them, are, we believe, stored in the Alaska Fur Co.'s warehouses at Oonalaska; the guns and ammunition were taken to Sitka, and are in the care of the United States Marshal.

The chronometers and charts of two of the vessels were left in Oonalaska with the vessels. The chronometer of the other, with one or two boats, was taken, we were told as evidence, to Sitka.

No notice whatever respecting the release of the vessels, or the delivery of their equipments, or of the skins, has been received by the owners. No word of any description has been conveyed to them by the United States authorities.

I have the honor to be, Sir, your obedient servant,

W. HAMLEY.

JOHN TILTON, Esq., Deputy Minister of Fisheries, Ottawa.

VICTORIA, B. C., 14th April, 1887.

DEAR SIR.—Your advice of 2nd inst. is to hand. In reply would say we have not been advised whether the vessels are to be returned to us at Victoria, or, are we to incur the expense and risk of taking them from Oonalaska, and accept the skins in the condition they may be found, as an offset in full against the amounts set opposite them in our claims. The expense and risk of getting them to Victoria will be great, as there is no direct way of transferring men and supplies, a distance of 1,500 miles.

It will necessitate the chartering of a steamer, and owing to the tremendous gales in the North Pacific the past winter, the vessels may be very seriously damaged if not totally lost. Knowing the Indians as we do, we anticipate that everything movable will be carried away.

The vessels and skins are left in the care of not too friendly a concern, namely, the Alaska Commercial Company's Agent, *alias*, the United States Marshal.

Remaining, Dear Sir, Your obedient servants,

CARNE & MUNSIE.

JOHN TILTON, Esq., Deputy Minister of Fisheries, Ottawa.











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Canada. Fisheries, Department of  
Special report on the fisheries protection  
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